

09/23/2010 12:31:04 PM
Recording Fee \$77.00 Page 1 of 16
Easement DOUGLAS, EDEN & PHILLIPS
Spokane County Washington

5936518



When recorded, return to:

09/23/2010 12:31:04 PM
Recording Fee \$62.00 Page 1 of 1
Covenant DOUGLAS, EDEN & PHILLIPS
Spokane County Washington

5936519



Attorney WILLIAM D. EDEN
DOUGLAS, EDEN, PHILLIPS, DeRUYTER & STANYER
422 West Riverside Avenue, Suite 909
Spokane, Washington 99201-0302

09/23/2010 12:31:04 PM
Recording Fee \$62.00 Page 1 of 1
Declaration DOUGLAS, EDEN & PHILLIPS
Spokane County Washington

5936520



RECIPROCAL EASEMENT AGREEMENT
WITH COVENANTS, CONDITIONS, AND RESTRICTIONS
AND DECLARATION OF ANNEXATION

Declarant: **NORTH GORGE RESIDENTIAL PARTNERS, LLC,**
a Washington Limited Liability Company, as Declarant

Legal Description: LOTS 1 THRU 20, BLOCK 1 OF FINAL PLAT OF KENDALL
YARDS ADDITION, BOOK 36 PAGE 23 AND 24. S 1/2 SEC.
13, T25N, RNG 42 E.W.M.

Parcel Numbers: 25134.6707, 25134.6708, 25134.6709, 25134.6710,
25134.6711, 25134.6712, 25134.6713, 25134.6714,
25134.6715, 25134.6716, 25134.6717, 25134.6718,
25134.6719, 25134.6720.

R. E. Excise Tax Exempt

Date 9-23 2010

Spokane County Treas.

By

THIS RECIPROCAL EASEMENT AGREEMENT WITH COVENANTS, CONDITIONS, AND RESTRICTIONS AFFECTING LAND ("Agreement"), effective as of the date set forth below ("Effective Date"), is made and executed by NORTH GORGE RESIDENTIAL PARTNERS, LLC, a Washington Limited Liability Company, ("Declarant"), and is agreed to and acknowledged by KENDALL YARDS HOMEOWNERS ASSOCIATION, a Washington nonprofit corporation ("Association").

RECITALS

A. Townhome Property. The parcel of real property subject to this Agreement ("Townhome Property") is legally described above. As of the date of Effective Date, Declarant is the owner of all of the Townhome Property. The Townhome Property is and will be improved with multi-family buildings (each, a "Building"), and each Building contains more than one townhome and resides on more than one separate parcel of land ("Lot"). The Declarant intends to sell the Lots to purchasers, each of which will become the owner of a Lot ("Owner").

B. Kendall Yards. The Townhome Property is adjacent to and is intended to be included in the real estate development commonly known as Kendall Yards. A portion of the Kendall Yards development is subject to that certain Master Declaration of Covenants, Conditions, and Restrictions for the Kendall Yards ("Master Declaration") made by North Gorge Residential Partners, LLC, a Washington Limited Liability Company, dated August 23rd, 2010, and recorded in the real property records of Spokane County, Washington, on August 23rd, 2010, under recording number 5927019. Pursuant to the Master Declaration, Declarant formed the Association.

C. Intent and Purpose. Declarant intends, by recording this Agreement, to subject the Townhome Property to and approve the annexation of the Townhome Property into the Master Declaration, to create mutually-beneficial easements on, over, under, and across the Townhome Property for the mutual benefit of the Owners, and to create mutually-beneficial easements

on, over, under, and across the Buildings for the mutual benefit of each Owner located within each Building.

ARTICLE I.

DEFINITIONS

Unless the context clearly indicates otherwise, capitalized terms as used in this Agreement have the meanings set forth in this Article. Unless the context clearly indicates otherwise, capitalized terms not otherwise defined in this Agreement have the meanings set forth in the Master Declaration:

1.1 Access Areas. The term "Access Areas" means all of the paved and concrete roadways and passageways on the Townhome Property, including without limitation the Parking Areas and sidewalks, but specifically excludes, without limitation, the Driveways.

1.2 Agreement. The term "Agreement" means this Reciprocal Easement Agreement with Covenants, Conditions and Restrictions.

1.3 Architectural Committee. The term "Design Review Committee" means the architectural committee created pursuant to Article X of the Master Declaration

1.4 Association. The term "Association" means the Kendall Yards Homeowners Association, a Washington Nonprofit Corporation.

1.5 Board or Board of Directors. The term "Board" or "Board of Directors" has the meaning of "Board" or "Board of Trustees" as defined in the Master Declaration.

1.6 Building or Buildings. The term "Building" or "Buildings" means the multi-family residential improvements located on the Townhome Property.

1.7 Common Area or Common Areas. The term "Common Area" or "Common Areas" has the meaning set forth in the Master Declaration and also includes, without limitation, the Access Areas and open space in the Townhome Property, but excludes, without limitation, (for some purposes) the Driveways, all as more specifically defined in Section 3.1, below.

1.8 Declarant. The term "Declarant" means "North Gorge Residential Partners, LLC", a Washington Limited Liability Company.

1.9 Declaration of Annexation. The term "Declaration of Annexation" has the meaning set forth in the Master Declaration.

1.10 Driveways. The term "Driveways" means the paved or concrete portions of the Townhome Property that are directly in front of each garage and extending from the face of the garage to the common access ways and that benefit only an individual Lot.

1.11 Effective Date. The term "Effective Date" means the date set forth below on the signature page of this Agreement.

1.12 Lot. The term "Lot" means each separate parcel of land contained in the Townhome Property held by any record Owner(s) and will be a "Lot" as that term is used in and for the purposes of the Master Declaration,

1.13 Master Declaration. The term "Master Declaration" means that certain Master Declaration of Covenants, Conditions, and Restrictions for Kendall Yards ("Master Declaration") made by North Gorge Residential Partners, LLC, a Washington Limited Liability Company, dated August 23rd, 2010, and recorded in the real property records of Spokane County, Washington, on August 23rd, 2010, under recording number 5927019.

1.14 Owner. The term "Owner" means the persons or entities who from time-to-time are the record owner(s) of the fee title to all or any portion of the Townhome Property and each Lot, including without limitation the Declarant.

1.15 Owner's Guests. The term "Owner's Guests" means all invitees, licensees, relatives, agents, and assigns of any Owner.

1.16 Parking Areas. The term "Parking Areas" means the paved or concrete portions of the Access Areas that are designated by the Association for the parking of automobiles.

1.17 Project. The term "Project" has the meaning set forth in the Master Declaration.

1.18 Special Assessment. The term "Special Assessment" has the meaning set forth in the Master Declaration, as further authorized by Section 2.2 of this Agreement.

1.19 Townhome Architectural Committee. The term "Townhome Architectural Committee" has the meaning set forth in Section 2.4, below.

1.20 Townhome Property. The term "Townhome Property" means the real property legally described above.

1.21 Townhome Committee. The term "Townhome Committee" has the meaning set forth in Section 2.3, below.

ARTICLE II.

DECLARATION OF ANNEXATION

2.1 Annexation. Declarant hereby incorporates the Townhome Property into a common plan of development for the Association and, by this Agreement, imposes upon the Townhome Property the mutually-beneficial restrictions imposed by the Master Declaration. Declarant hereby declares that the Townhome Property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold and improved subject to the Master Declaration, incorporated into this Agreement by this reference. All of the limitations, covenants, conditions, restrictions, and easements contained in the Master Declaration shall constitute covenants which run with the Townhome Property and are perpetually binding upon the Declarant, Owners, and their successors-in-interest and assigns, and all parties having or acquiring any right, title or interest in or to any part of the Townhome Property; provided that, notwithstanding Section 4.1.1 of the Master Declaration, townhome style buildings may be constructed on the Townhome Property that contain more than a single family dwelling for single family occupancy, so long as a single family resides on each Lot within the Townhome Property; further provided that, notwithstanding Section 4.2.3 of the Master Declaration, signs advertising Townhome Lots for sale or lease may be displayed only if approved by or permitted by the Board; and further provided that,

notwithstanding Section 7.3 of the Master Declaration, Special Assessments may be imposed on the Townhome Property for the purposes set forth herein.

2.2 Special Assessments on Townhome Property. In addition to levying special assessments pursuant to Section 7.3 of the Master Declaration, the Board may also levy a Special Assessment on the Lots in the Townhome Property for maintaining, repairing and replacing the Common Areas located on the Townhome Property; provided that any such Special Assessment for maintaining the Common Areas must be made upon all Lots on the Townhome Property and must be allocated equally to each Lot on the Townhome Property.

2.3 Townhome Committee. The Board of Directors shall establish an advisory committee to the Board for matters that specifically concern or impact the Townhome Property ("Townhome Committee") and the Board may establish reasonable rules and regulations relating to the Townhome Property. The Townhome Committee shall be formed not later than one (1) year from the sale of the first Lot within the Townhome Property. The Townhome Committee has the authority to make recommendations to the Board regarding the Townhome Property and the Board is hereby instructed to consider (but is not obligated to accept) the recommendations. The Townhome Committee does not have any of the rights or obligations of the Board and nothing in this Agreement is intended to constitute or does constitute a grant, assignment, or delegation of any such rights or obligations. The Townhome Committee will have no more than five (5) and no less than three (3) members, as determined by the Board of Directors. The members of the Townhome Committee will be appointed by the Board of Directors. A member of the Townhome Committee must have an ownership interest in a Lot in the Townhome Property. The Board will determine the method, timing, location, and procedure of the Townhome Committee appointments and meetings; provided that the Townhome Committee will have meetings scheduled no less than once a calendar year.

2.4 Townhome Architectural Committee. The Board shall also establish

an advisory committee to the Design Review Committee created pursuant to Article X of the Master Declaration for matters that specifically concern or impact the Townhome Property ("Townhome Architectural Committee"). The Townhome Architectural Committee shall be formed not later than one (1) year from the sale of the first Lot within the Townhome Property. The Townhome Architectural Committee has the authority to make recommendations to the Design Review Committee regarding the Townhome Property, and the Design Review Committee is hereby instructed to consider (but is not obligated to accept) the recommendations. The Townhome Architectural Committee does not have any of the rights or obligations of the Design Review Committee, and nothing in this Agreement is intended to constitute or does constitute a grant, assignment, or delegation of any such rights or obligations. The Townhome Architectural Committee will have no more than five (5) and no less than three (3) members, as determined by the Board. The members of the Townhome Architectural Committee will be appointed by the Board from those individuals who have an ownership interest in a Lot located within the Townhome Property.

2.5 Committee Members. The members of the Townhome Committee and Townhome Architectural Committee are subject to the standards of care applicable to members of the Board and Design Review Committee, respectively. Likewise, any disclaimer of, limitation on, insurance for, or indemnification for (whether arising from the Master Declaration, Bylaws, Articles, applicable law, or otherwise) liability applicable to members of the Board and Design Review Committee also applies to members of the Townhome Committee and Townhome Architectural Committee, respectively.

ARTICLE III.

TOWNHOME PROPERTY EASEMENTS

3.1 Master Declaration Easements. Without limiting the Master Declaration, the easements set forth in Article 4 of the Master Declaration apply to the Townhome Property, as if the Declarant under this Agreement were the

Declarant under the Master Declaration. For all purposes in the Master Declaration, the Common Areas include, without limitation, the Access Areas and open space in the Townhome Property, but exclude, without limitation, the Driveways in the Townhome Property; provided that the Driveways are included in the definition of Common Areas for the purposes of Section 5.11.2.1 of the Master Declaration (regarding repair and maintenance), Section 4.2.5 of the Master Declaration (regarding repair and maintenance), and Section 6.4 of the Master Declaration (regarding damage to Common Areas).

3.2 Access Easements. Declarant hereby grants the Owners, the Owners' Guests, and the Association a nonexclusive easement over and across the Access Areas and Parking Areas, along with such other portions of the Townhome Property as are reasonably necessary, for the purposes of providing access to or from the Lots or other property subject to the Master Declaration.

3.3 Parking Easements. Declarant hereby grants the Owners, the Owner's Guests, and the Association a nonexclusive easement over and across the Parking Areas, along with such other portions of the Townhome Property as are reasonably necessary, for the purposes of parking vehicles in compliance with the Master Declaration and the rules and regulations applicable to the Parking Areas as set forth by the Association.

3.4 Maintenance Easements. Declarant hereby grants the Association a nonexclusive easement over and across the Common Areas, along with such other portions of the Townhome Property as are reasonably necessary, for the purposes of maintaining the landscaping and irrigation systems for the Townhome Property. The easement granted in this Section shall not apply to the landscaping in the planting beds around each Building, which will be the responsibility of the individual Owners.

ARTICLE IV.

TOWNHOME BUILDING MAINTENANCE AND EASEMENTS

4.1 Intent of Declarant. The Declarant intends for all of the Owners of each Building to collectively make the decisions and take the actions set forth within this Article as if each Building constituted a separate sub-association for the sole purposes of maintaining, improving, and repairing such Building; provided that this Agreement and Article do not actually create any association or sub-associations and provided further that nothing in this Agreement or Article restricts or limits the rights of the Association under the Master Declaration (for example and without limitation, this Article does not limit the right of the Association to cause each Building and Lot to be maintained and assess the cost of maintenance to the Owners of the Building pursuant to Section 5.11.2.1 of the Master Declaration).

4.2 Building Maintenance, Improvement, and Repair. The Owners of each Building, in addition to the obligations set forth in Section 4.2.5 of the Master Association related to each Owner's Lot, are also required to maintain and repair the exterior portions of their Building (as such portions are defined in this Section) in good condition at the collective expense of the Owners of the Building and may make improvements to the same exterior portions of their Building. The exterior portions of the Building subject to this Section are those exterior portions of the Building which cannot reasonably be maintained, improved, or repaired without substantially maintaining, improving, or repairing similar or other affected portions throughout the whole Building exterior; the exterior portions subject to the obligations of this Section include, without limitation, the roof, roof skin, siding, trim, and painting of the exterior, and exclude, without limitation, windows, doors, patios, and balconies. The expenses born under this Section by the collective Owners of the Building, or the expense of any Special Assessment for the maintenance or repair the exterior portions of the Building (as such portions are defined in this Section), will be paid equally by each Lot Owner of the Building (such that, by way of illustration, if there are three Lots for a Building, two of which have one Owner and one of which has two Owners, each "Lot" will be responsible

for one-third of the cost so that the two sole Owners will each pay one-third and the two joint Owners will each pay one-sixth of the expenses) unless the expense has arisen from the gross negligence or intentional act of an Owner or of an Owner's Guest, in which event that Owner will be responsible for the entire expense.

Without limiting the applicability of the Master Declaration, Article 4 of the Master Declaration, relating to architectural control over any painting or maintenance, applies according to its terms to maintenance, improvement, or repair made pursuant to this Agreement.

4.3 Building Insurance. The Owners of each Building may decide, by majority vote, to obtain insurance related to their Building through one or more common insurance policies which name each and every Owner of the Building as an insured. The insurance premiums for such common insurance policies shall be paid equally by each equally by each Lot Owner of the Building (such that, by way of illustration, if there are three Lots for a Building, two of which have one Owner and one of which has two Owners, each "Lot" will be responsible for one-third of the premiums so that the two sole Owners will each pay one-third and the two joint Owners will each pay one-sixth of the premiums).

4.4 Decisions by Building Owners. The Owners of each Building may take any action or pay any expense to comply with the obligations set forth in Sections 4.2 or 4.3 of this Agreement upon a majority vote of the Owners of the Lots containing the Building or, in the case of an emergency, by one or more Owners acting in the interests of all Owners of the Building. Each Lot will be allocated one (1) vote. A vote may be taken at a meeting, over the phone, by electronic communication, by facsimile, or in writing, as long as all other Owners of the Building are notified of the vote and are given an opportunity to vote. Where there are multiple Owners of a single Lot containing the Building, the single vote allocated to such Lot may be cast only by the unanimous agreement of the Owners of such Lot, and not be split. If the Owners of a single Lot are

unable to agree on how the single vote should be exercised with respect to a particular issue, no vote will be cast on such issue with respect to such Lot and such Lot will not be taken into consideration in determining the vote such that, by way of illustration only, a unanimous vote of all other Lots containing the Building would constitute a unanimous vote of the Owners of the Building.

4.5 Building Access Easements. In addition to the encroachment and utility easements set forth in the Master Declaration, and without limiting the same, Declarant hereby grants the Owners of each Building a nonexclusive easement over, under, on, and in the Building for the purposes of repairing, improving, and maintaining the Building and the utilities and the heating, ventilation, and air condition systems in or on the Building.

4.6 Common Wall Easements. Declarant hereby grants the Owners of each Building nonexclusive easements over, under, on, and through each Lot, along with such other portions of each Lot as are reasonably necessary, for the purposes of supporting, repairing, improving, and maintaining the common walls located within and along the exterior of each Building. The easement granted in this Section requires, among other responsibilities and duties, each Owner to provide the support necessary to maintain the structural integrity of all common walls.

4.7 Disputes among Building Owners. In the event of any dispute or disagreement between Owners of a Building arising from or related to any provision in this Article, the Owners shall submit the dispute or disagreement to arbitration before the Townhome Committee. The rules of arbitration will be established by the Board within the sole discretion of the Board. The decision of the Townhome Committee may be appealed to the Board, which may decline to hear the appeal, or which may uphold or reverse the decision of the Townhome Committee, all within the sole discretion of the Board. The decision of the Board will be final and binding upon the parties and may, within the discretion of the Board, be enforced by a Special Assessment. Notwithstanding any provision to

the contrary contained in Chapter 7.04A of Title 7 of the Revised Code of Washington or other applicable or successor law, the substantially prevailing party at arbitration shall be awarded the costs of arbitration, including, without limitation, reasonable attorneys' fees, costs, expenses, audit or accounting expenses (including without limitation arbitration fees and arbitrator fees) incurred in the arbitration process.

ARTICLE V.

DURATION AND AMENDMENT

5.1 Duration. This Agreement shall continue in full force and effect during the term of the Master Declaration. In the event of a termination of the Master Declaration, this Agreement will also terminate.

5.2 Amendment Procedures. An amendment to this Agreement may be made only by conformance with Article 13 of the Master Declaration (as if this Agreement were a part of the Master Declaration); provided that an amendment to this Agreement also requires the vote, in person or by proxy, or the written consent, of Owners owning not less than sixty-seven percent (67%) of the Lots located on the Townhome Property.

ARTICLE VI.

MISCELLANEOUS PROVISIONS

6.1 Use of Easements. The easements established by this Agreement shall be for the benefit of and restricted solely to the use of the Owners, Owner's Guests, Association, and their successors, assigns, mortgagees, lessees, sublessees, employees, agents, customers, licensees and business invitees, and the same are not intended and shall not be construed as creating any right in or for the benefit of the general public.

6.2 Not a Public Dedication. Nothing contained in this Agreement shall be deemed to be a dedication of any portion of the Townhome Property in the general public or for the general public or for any public purposes whatsoever, it being the intention that this Agreement will be strictly limited to and for the

purposes expressed herein.

6.3 Dominant and Servient Estates. Each and all of the easements and rights granted or created herein are appurtenances to the applicable portions of the Townhome Property, the Lots, and Buildings, and none of such easements and rights may be transferred, assigned or encumbered, except as an appurtenance to such portions. For the purposes of such easements and rights, the property benefited constitutes the dominate estate, and the particular areas of the Townhome Property which respectively are burdened by such easements and rights constitute the servient estate.

6.4 Covenants Run with Land. Each and all of the covenants, restrictions and provisions contained in this Agreement (whether affirmative or negative in nature): (i) are covenants which run with each Lot and Building; (ii) are made for the direct, mutual and reciprocal benefit of each such Lot and Building; (iii) create mutual equitable servitude upon each Lot and Building; (iv) bind every person having any fee, leasehold mortgage or deed of trust or other interest in any portion of the Townhome Property at any time or from time-to-time to the extent that such portion is affected or bound by the covenant, restriction or provisions to be performed on such portion; and (v) inure to the benefit of the Owners, Owner's Guests, Association, and its respective successors and assigns as to the respective Lots in the Center and to the benefit of mortgagees, lessees and sublessees under mortgages, leases and subleases covering the Townhome Property or any portion thereof and beneficiaries and trustees under deeds of trust covering the Townhome Property or any portion thereof.

6.5 Benefit and Burden. The terms, covenants and conditions contained herein inure to the benefit of and are binding upon each Owner, and any other person having any interest in the Townhome Property and their respective legal representatives, successors and assigns.

6.6 Severability. If any clause, sentence or other portion of the terms,

covenants or restrictions of this Agreement becomes illegal, null or void for any reason, or is held by any court of competent jurisdiction to be so, the remaining portions remain in full force and effect.

6.7 No Waiver. Failure to enforce any provision, restriction, covenant or condition in this Agreement, or in any supplemental or amended Agreement, does not operate as a waiver of any such provision, restriction covenant or condition or of any other provisions, restrictions, covenants or conditions.

6.8 Construction. Wherever used herein, unless the context shall otherwise provide, the singular form shall include the plural, the plural shall include the singular, and the use of any gender will include all genders. The articles and section headings set forth herein are for convenience and reference only and are not intended to describe, interpret, define or otherwise affect the content, meaning or intent of this Agreement or any article, section or provision hereof. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

6.9 Not a Partnership. The Declarant, Association, and Owners do not by this Agreement, in any way or for any purpose, become partners or joint venturers in the conduct of their respective businesses or otherwise.

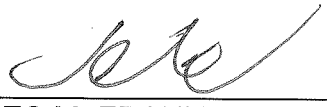
6.10 Owner(s) Obligations. All obligations of each Owner(s) under and by virtue of the provisions contained in this Agreement will continue, notwithstanding that such Owner may be leasing, renting or selling such Owner's Lot under contract. The Owner(s) have no obligation for expenses or other obligations accruing after such Owner conveys the fee title for such Lot to another party.

IN WITNESS WHEREOF, Declarant and Association have executed this Reciprocal Easement Agreement with Covenants and Restrictions as of the _____ day of _____, 2010.

NORTH GORGE RESIDENTIAL PARTNERS LLC

By: 
JAMES M. FRANK, Member

KENDALL YARDS HOMEOWNERS ASSOCIATION

By: 
JAMES M. FRANK, President

STATE OF WASHINGTON)

: ss.

County of Spokane)

On this 22nd day of September, 2010, personally appeared before me JAMES M. FRANK, to me known to be the Member of NORTH GORGE RESIDENTIAL PARTNERS, LLC, a Washington Limited Liability Company, the Company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act of said Company, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instrument on behalf of said Company.

GIVEN UNDER my hand and official seal the day and year in this certificate first above written.

**Notary Public
State of Washington
Kitsy Beth Blair
Commission Expires 5-12-12**

Kitsy Beth Blair
Notary Public in and for the State
of Washington, residing at Spokane
My Commission Expires: 5/12/2012

STATE OF WASHINGTON)

: ss.

County of Spokane)

On this 20th day of September, 2010, personally appeared before me JAMES M. FRANK, to me known to be the President of KENDALL YARDS HOMEOWNERS ASSOCIATION, a Washington Nonprofit Corporation, the Corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act of said Corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instrument on behalf of said Corporation.

GIVEN UNDER my hand and official seal the day and year in this certificate first above written.

**Notary Public
State of Washington
Kitsy Beth Blair
Commission Expires 5-12-12**

Kitsy Beth Blair
Notary Public in and for the State
of Washington, residing at Spokane
My Commission Expires: 5/12/2012