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1500 RAILROAD AVENUE
BELLINGHAM, WA 98225



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Skagit County Auditor

DOCUMENT TITLE(S):

**COVENANT AND AGREEMENT REGARDING INSTALLATION OF SOLAR ENERGY
SYSTEM**

REFERENCE NO(S):

N/A

GRANTOR(S):

PORTALIS WEST CONDOMINIUM ASSOCIATION

GRANTEE(S):

WHITE FAMILY TRUST, White David C Trustee

ABBREVIATED LEGAL DESCRIPTION:

UNIT 4935, PORTALIS WEST CONDOMINIUM, ACCORDING TO THE DECLARATION THEREOF, RECORDED
ON FEBRUARY 21, 2014, AS AUDITOR'S FILE NO. 201402210119, AND ANY AMENDMENTS THERETO,
RECORDS OF SKAGIT COUNTY, WASHINGTON.

ASSESSOR'S PROPERTY TAX PARCEL / ACCOUNT NUMBERS:

P132843

**COVENANT AND AGREEMENT
REGARDING
INSTALLATION OF SOLAR ENERGY SYSTEM**

This Covenant and Agreement Regarding Installation of Solar Energy System is entered into this 11 day of December, 2023 by and between **PORTALIS WEST CONDOMINIUM ASSOCIATION ("Association")** and WHITE FAMILY TRUST, White David C Trustee ("Owner"). The above-described entities are collectively referred to herein as the "Parties," or individually as a "Party."

RECITALS

1. The Association, pursuant to the terms of the Declaration for Portalis West Condominium (the "Declaration") and Bylaws (collectively referred to as the "Governing Documents") for the units within the condominium (the "Condominium,") is authorized to enforce the provisions contained within the Governing Documents which are applicable to all members and Units within the Condominium.
2. Owner is the owner of Unit 4935 (the "Unit") in the Condominium with a mailing address of 4935 Portalis Way, Anacortes, WA 98221
3. The roof for the Building (the "Roof") constitutes a common element of the condominium. Pursuant to the Declaration, the Association has the responsibility to repair, replace, and maintain the common elements of the Condominium.
4. Owner has requested permission to install a solar energy system (the "System") on the Roof of the Building.
5. Section 2.13.4 of the Declaration provides that no part of the common elements shall be used for keeping of things by any person except as otherwise permitted. Accordingly, the installation of the System on the roof requires approval by the Association.
6. The Board of Directors is authorized to establish reasonable conditions for granting approval to install a solar energy system on the common elements.
7. The Board of Directors is willing to grant approval of the application to install the System upon the satisfaction of the conditions set forth and memorialized in this Covenant and Agreement.

NOW THEREFORE, based on the covenants and premises set forth herein, the parties agree as follows:

1. **Preconditions to Association Approval.** Owner shall submit to the Association the following for review as a condition of approval:
 - a. A complete description of the products, materials, and systems to be used in the installation.
 - b. A detailed diagram of the System, the proposed roof location, the number of necessary roof penetrations, and associated wiring. The diagram shall be prepared by the

manufacturer and/or installer of the System.

c. A written opinion from the applicable roofing manufacturer for the Building Roof that the roof warranty held by the Association will not be compromised by installation of the System.

d. Owner shall provide copies of all applicable and issued permits for the installation.

2. **Installation Conditions.** If approval is granted by the Association for the System to be installed on the Roof, the following conditions shall apply to the installation:

a. **Installation Contractor.** The System shall be installed by a licensed, bonded, and insured contractor acceptable to the Association.

b. **Contractor Insurance and Waiver of Immunity.** Contractor shall purchase and maintain insurance identified in **Exhibit A** on a per occurrence and aggregate basis naming the Association as an additional insured by endorsement. All such insurance shall be primary to any coverage carried by Association. Contractor shall provide the Association evidence of such coverage prior to commencing the Work. Contractor shall sign a waiver of its Title 51 immunity prior to commencing work.

c. **Installation Requirements.** The installation of the System shall comply with all requirements of the City of Anacortes building codes and shall be in conformity with the System manufacturer's specifications. The installation shall strictly comply with the information and representations contained in the Owner's application. Upon completion of the installation, Owner shall submit a written statement from the installer verifying that such products have been installed and that the installation was performed in accordance with all manufacturer's specifications and guidelines.

3. **Roof Maintenance or Repair.** In the event that the Association must perform maintenance to or replace the roof system on the Building, Owner shall be responsible for hiring (at Owner's sole expense) a licensed and insured contractor to disassemble the System to facilitate the Association's performance of maintenance or repairs on the roof and thereafter reassemble the System in compliance with this Covenant.

3.1 If Owner fails to cause the disassembly upon request by Association, the Association shall be entitled to cause the disassembly and shall be entitled to specially assess Owner the cost of the disassembly. Owner hereby agrees that such special assessment shall constitute, and be subject to all terms and conditions associated with, an "assessment" as specified in Section 4 of the Declaration.

4. **Maintenance and Repair.** Owner shall keep the System in good condition and repair and shall promptly repair or replace any portion of the System which is not in good condition and repair. Owner shall be solely responsible for the cost of any maintenance or repair to the System; all such work shall be performed by licensed, bonded, and insured contractors. Owner shall provide the Association with at least five (5) days advance written notice before any such maintenance or repairs are performed. The Association shall be entitled to have an inspector present during any such maintenance or repairs. All work on the System, except emergency repairs, shall be conducted during the hours of Monday – Friday, 9 a.m. to 5 p.m.

5. **System Removal.** If Owner elects to remove the System, the Roof shall be restored to the condition it was in prior to the installation, less reasonable wear and tear. Owner shall be responsible for all costs associated with such restoration work.

6. **Damage.**

6.1 Owner shall be responsible for any damage caused to the Roof or other common elements as a result of installation, maintenance or repairs made by Owner or Owner's agents to the System.

6.2 The Association shall not be liable for any damage to the System except damage that it or its agents intentionally cause, and Owner hereby releases the Association from any and all claims for damage, loss, or destruction to the System except for claims arising out of intentional damage. It shall be Owner's responsibility to insure against all perils and risk through insurance.

7. **Indemnification.** Owner shall defend, indemnify, and hold harmless the Association and its agents and employees from and against claims, damages, losses, and expenses, including, but not limited to attorneys' and expert's fees, (collectively a "claim") arising out of or resulting from the System. Owner's duty to indemnify the Association shall not apply to liability for damages arising out of claims caused by or resulting in whole from the negligence or willful misconduct of the Association or its agents or employees. Owner's duty to indemnify the Association for liability for damages arising out of claims caused by or resulting from the concurrent negligence of: (a) the Association or its agents and (b) Owner or Owner's agents shall apply only to the extent of negligence of Owner or its agents.

8. **Insurance.** Owner shall continuously maintain appropriate liability insurance insuring damage caused by the System, including but not limited to damage to the common elements of the Association. Such policy shall have minimum limits of Five Hundred Thousand Dollars (\$500,000.00) and shall contain an endorsement naming the Association as an additional insured.

9. **Enforcement.** Should Owner breach any term of this Covenant and Agreement and fail to cure such breach within ten (10) days after receipt of written notice of the breach (or such longer period as the Association permits if the breach requires additional time to cure, provided that Owner is making a diligent effort to cure as quickly as possible), the Association shall be entitled to pursue an action for breach. Said remedies shall include the right to reasonable attorneys' fees (whether incurred before or after suit is filed) and costs incurred (including expert costs) by the Association in prosecuting any action at law or in equity.

10. **Covenant.** This Agreement shall run with the land and shall be binding upon all persons or entities having or acquiring any right, title, or interest in the Unit or any portion thereof, whether as sole owners, joint owners, or otherwise. Owner shall disclose the existence of and terms of this Covenant to all prospective purchasers of the Unit. In the event that the System is not approved by the Association, or at such time as it is removed after satisfying all conditions herein, the parties will record a Termination of Agreement with the Skagit County Auditor.

11. **Non-Waiver.** Entry into this Agreement by the Association shall not constitute a waiver

UNOFFICIAL
Documents except those expressly set forth herein.

12. **Entire Agreement.** This Agreement supersedes and replaces all prior agreements, oral or written, with regards to the matters set forth herein. This Agreement may be modified only in writing, signed by both parties.

13. **Recording.** This Agreement shall be recorded with the Skagit County Auditor. Owner shall disclose the existence of and terms of this Covenant to all prospective purchasers of the Lot.

**PORTALIS WEST CONDOMINIUM
ASSOCIATION**

By: Na
Its: Treasurer, PORTALIS WEST

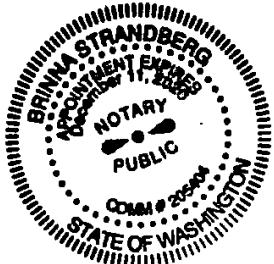
OWNER

JD

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this day personally appeared before me Charles Whi <sup>Marie
Collegher</sup> AND David to me known to be the individuals described in and who executed the 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 11th day of December, 2023.



Brinna Strandberg
Print Name:
NOTARY PUBLIC in and for the
State of Washington, Residing at Bellingham,
My Commission Expires: December 11th 2026

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this day before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared, Marie Cluett, to me known to be the PRESIDENT of PORTALIS WEST CONDOMINIUM ASSOCIATION, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute the said instrument on behalf of the corporation.

GIVEN under my hand and official seal this 11th day of December, 2023.



Brinna Strandberg
Print Name: Brinna Strandberg
NOTARY PUBLIC in and for the
State of Washington, residing at Anacortes, WA
My commission expires: December 11th 2026

EXHIBIT A

Contractor Insurance Requirements

Insurance.

Coverage and Limits.

1. Contractor shall, at its sole expense, purchase and maintain such insurance as this will protect it from the claims set forth below which may arise out of or result from Contractor's operations on the Solar System:

- a. Claims for damages because of bodily injury, occupational sickness or disease, or death of its employees under any applicable employer's liability law.
- b. Claims for damages because of bodily injury or death of any person other than its employees.
- c. Claims for damages because of usual personal injury liability coverage.
- d. Claims for damages because of injury to or destruction of tangible property, including loss of use therefrom.
- e. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle.
- f. Claims resulting from products or completed operations.

Minimum coverages and limits of liability for all insurance shall be as specified herein. If Contractor's existing policy(s) provides higher limits than those specified herein, the higher limits shall be applicable and the certificates of insurance provided by Contractor shall reflect those higher limits. The coverages required herein, shall extend one year after completion of the installation.

All coverage shall be placed with an insurance company duly licensed in the State where the project is located with an A.M. Best Rating of A- VII or better. Such insurance shall include, but not be limited to:

- a. General Liability – Bodily Injury, Personal Injury, and Property Damage
 1. \$1,000,000 General Aggregate
 2. \$1,000,000 Products and Completed Operations Aggregate
 3. \$1,000,000 Personal Injury
 4. \$1,000,000 Each Occurrence

- b. Employers Liability / Stop Gap
 - 1. \$1,000,000 Bodily Injury by Accident – Each Accident
 - 2. \$1,000,000 Bodily Injury by Disease – Policy Limit
 - 3. \$1,000,000 Bodily Injury by Disease – Each Employee
- c. Automobile Liability
 - 1. \$1,000,000 Bodily Injury and Property Damage per accident
- d. Umbrella Liability (Excess policy must be following form)
 - 1. \$2,000,000 Each Occurrence
 - 2. \$2,000,000 Aggregate

Commercial General Liability Insurance.

Commercial General Liability Insurance coverage shall be based on Insurance Services Office Form CG 00 01 10 01 or an approved equivalent. The policy shall contain an endorsement (Form CG 2503 or equivalent) providing that the general aggregate limit of liability shall apply to this Project. The coverage shall also be based on an occurrence form and shall include, but not be limited to, coverage for liability arising from premises, operations, independent contractors, products, and completed operations, personal and advertising injury, broad form property damage, explosion, collapse, underground hazards, and liability assumed under an insured contract.

Commercial General Liability Insurance shall not contain an endorsement or exclusion excluding injury or damage arising from a prior occurrence, causing continuous or progressively deteriorating injury or damage.

Commercial General Liability Insurance shall not contain a deductible greater than Twenty-Five Thousand Dollars (\$25,000.00).

Commercial General Liability Insurance shall include Employers Liability (Stop Gap).

Auto Liability Insurance.

Contractor and any lower-tier Contractor, owner, operator, or trucker working for or on behalf of or in support of Contractor shall maintain and pay for Commercial General Automobile Liability insurance as specified and with the limits outlined herein. Said Auto Liability insurance shall be on an industry standard CA 00 01 or an approved equivalent form. Coverage shall extend to an include coverage for all owned, hired, and non-owned automobiles.

1) Certificates of Insurance and Additional Insured Endorsements.

Prior to the commencement of any work under this contract or agreement, Contractor shall provide to the Association a Certificate of Insurance on Acord Form 25 outlining and showing that it is in compliance with all of the insurance provisions outlined in this section including both coverage and limits.

The policy shall contain a provision that coverage afforded thereunder shall not be canceled or non-renewed or restrictive modifications added, without forty-five (45) days prior written notice to the Association, except for any applicable state mandated provision for non-payment of premiums.