

(6/27/12)

After Recording Return To:
King County
Property Service Division
500 King County Administration Building
500 Fourth Avenue
Seattle, Washington 98104

HOUSING COVENANT AND REGULATORY AGREEMENT
(SOUTH KIRKLAND T.O.D. – MARKET RATE HOUSING PROJECT)

GRANTOR: 1. KIRKLAND PARK & RIDE, LLC, a Washington limited liability
 company

 2. KTOD DEVELOPER, L.L.C., a Washington limited liability
 company

GRANTEE: KING COUNTY

Legal Description:
 Abbreviated form:
 Additional legal on page Exhibit A of document

Assessor's Property Tax Parcel Account Number(s):

Reference number(s) of Related Document(s):

TABLE OF CONTENTS

	Page
1. Incorporation of Recitals; Definitions.....	3
2. Development of Market Rate Housing Project	4
3. Market Rate Housing Covenant.....	4
4. Operation of the Market Rate Housing Project; Transportation Management Plan	5
5. Compliance with Legal Requirements.....	6
6. Reporting Requirements	6
7. Term.....	6
8. Contractual Obligation.....	7
9. Covenants to Run with the Land.....	7
10. Defaults; Remedies	7
11. Enforcement of Terms	8
12. Involuntary Termination	8
13. Notices	9
14. Termination of Rights, Duties and Obligations of Developer	9
15. Attorneys' Fees.....	10
16. No Conflict with Other Documents	10
17. Severability	10
18. No Waiver; Remedies.....	10
19. Governing Law	10
20. Fair Construction	10
21. Time is of the Essence	11
22. Counterparts.....	11
23. Authority.....	11

**HOUSING COVENANT AND REGULATORY AGREEMENT
(South Kirkland T.O.D. – Market Rate Housing Project)**

THIS HOUSING COVENANT AND REGULATORY AGREEMENT (the “Regulatory Agreement”) is entered into as of [_____, 20__] by and among KIRKLAND PARK & RIDE, LLC, a Washington limited liability company (“Developer”), KTOD DEVELOPER, L.L.C., a Washington limited liability company (“Owner”), and KING COUNTY, a political subdivision of the State of Washington (“County”). The County, the Developer and the Owner are sometimes referred to individually in this Regulatory Agreement as a “Party” and collectively as the “Parties”.

RECITALS

A. County is a political subdivision of the State of Washington and is authorized by RCW Chapter 36.56 to provide metropolitan public transportation services in the Seattle-King County metropolitan area. In January of 1998 the County adopted a Transit Oriented Development Program (T.O.D.) to encourage public or private development that creates new mixed-income housing development, including related commercial activities, in close proximity to transit facilities and services to increase ridership of the County’s metropolitan public transportation system, decrease automobile trips and traffic congestion and provide additional fare revenue to support metropolitan public transportation services throughout King County. Developer is a Washington limited liability company formed by SOUTH KTOD DEVELOPMENT LLC, a Washington limited liability company (“Imagine”) and Owner to develop the South Kirkland T.O.D. Project described below. Owner is a Washington limited liability company that constructs, owns and operates mixed-use developments in the state of Washington. Imagine is a Washington limited liability company whose purpose is to construct, own and operate low-income, affordable housing.

B. Pursuant to its Request for Proposals – South Kirkland Park-and-Ride Transit Oriented Development No. 1324 11RLD dated August 25, 2011, the County accepted a joint proposal from Imagine and Owner (collectively, the “Housing Developers”), to redevelop a 5.7 acre park-and-ride facility owned by the County (the “South Kirkland T.O.D. Project”) in three phases consisting of redevelopment of the existing transit center (the “Transit Center”), expansion of essential commuter parking by replacing the existing 603 parking stalls with a mix of surface parking for 321 vehicles and a structured parking garage containing approximately 532 parking stalls for a total of 853 parking stalls for use by transit commuters (the “Garage”) and development of a mixture of affordable housing and market rate housing, associated parking and mixed-use commercial development on the remainder of the land (the “Housing Project”). In order to enable one entity to obtain the government permits, approvals and financing necessary to develop the Transit Center and the Garage, the Housing Developers formed Developer.

C. The County and the Developer entered into that certain Transit Center Ground Lease dated as of _____, 2012 (the “Transit Center Ground Lease”) and Lease Agreement (with Option to Purchase – Transit Center) (the “Transit Center Project Lease”) of even date therewith whereby Developer agreed to design, develop, finance, construct, equip, and complete the Transit Center on the Transit Center Land and lease the completed Transit Center to the County, and simultaneously entered into that certain Garage Ground Lease dated as of _____, 2012 (the “Garage Ground Lease”) and Lease Agreement (with Option to Purchase – Parking Garage) (the “Garage Project Lease”) of even date therewith whereby Developer agreed to design, develop, finance, construct, equip and complete the Garage on the Garage Land and lease the completed

Garage to the County. The County would not have entered into the Transit Center Ground Lease, the Transit Center Project Lease, the Garage Ground Lease or the Garage Project Lease, but for the agreement by the Developer to accept title to the Housing Land in part payment of the Garage subject to the Housing Covenants restricting use of the Housing Land to the development of the Housing Project consisting of (i) a market rate multifamily residential housing project with a minimum of 177 units together with associated underground parking and commercial and retail uses as more particularly described in Section 2 below (the "Market Rate Housing Project") and (ii) an affordable multifamily residential housing project with a minimum of 58 units (the "Affordable Housing Project"). Developer has achieved Final Completion of the Transit Center and the Garage and the County has exercised its option to purchase the Transit Center and the Garage. Pursuant to the provisions of the Garage Project Lease, Developer has agreed to accept title to the Housing Land and Housing Easements and Developer, Owner and Imagine have agreed to develop the Market Rate Housing Project and the Affordable Housing Project on the Housing Land subject to the terms of the Housing Covenants.

D. In order to facilitate the development and separate financing of the Market Rate Housing Project and the Affordable Housing Project on the Housing Land, following the conveyance of the Housing Land and the Housing Easements to Developer and recording of the Housing Covenants in a first lien position as a covenant running with the land binding on the Housing Land, Developer will record a condominium declaration against the Housing Land creating a two unit condominium. One condominium unit (the "Market Rate Condominium Unit") will be conveyed to Owner and the other condominium unit (the "Affordable Condominium Unit") will be conveyed to Imagine.

E. The County has agreed to convey the Housing Land and the Housing Easements to Developer, on the express condition among others, that Developer, Owner and Imagine each enter into the Housing Covenants with the County whereby Developer will agree, with respect to the Housing Land, and (i) Imagine will agree with respect to the Affordable Condominium Unit to develop the Affordable Housing Project and lease the apartments to low-income residents of King County on the terms and conditions hereinafter set forth and enter into a transportation management plan with the County to encourage the use of commuting alternatives to single passenger car trips whereby Imagine will agree, as part of its transportation management plan, to, among other things, purchase and provide, at a discounted cost to the tenants of each Apartment in the Affordable Housing Project, a minimum of 58 annual bus passes or e-purses for a minimum term of five (5) years and (ii) Owner will agree with respect to the Market Rate Condominium Unit to develop the Market Rate Housing Project and lease the apartments to residents of King County on the terms and conditions set forth in this Regulatory Agreement, and develop and lease commercial and retail space that will support transit riders, residents of the Affordable Housing Project and Market Rate Housing Project and surrounding neighborhood, and encourage the use of transit by residents and businesses, employees and invitees at the Market Rate Housing Project and enter into a transportation management plan with the County to encourage the use of commuting alternatives to single passenger car trips whereby Owner will agree to, among other things, purchase and provide, at a discounted cost to the tenants of each apartment and the employees of each business leasing commercial or retail space in the Market Rate Housing Project, a minimum of 177 annual bus passes or e-purses for a minimum term of five (5) years on the terms and conditions set forth in this Regulatory Agreement.

F. The conveyance of the Housing Land and the Housing Easements to Developer and the agreement by Developer, Owner and Imagine to develop the Market Rate Housing Project and the Affordable Housing Project on their respective portions of the Housing Land will promote the public welfare, increase the availability of affordable housing in King County, maximize usage of the South Kirkland Transit Center, and increase ridership and utilization of metropolitan public transportation, thereby decreasing traffic congestion and improving air quality for all King County residents.

NOW, THEREFORE, in consideration of the foregoing recitals, conveyance of the Housing Land and the Housing Easements by the County to the Developer, the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Incorporation of Recitals; Definitions. Each recital set forth above is incorporated into this Regulatory Agreement as though fully set forth herein. Unless otherwise expressly provided herein or unless the context clearly requires otherwise, the terms defined above shall have the meanings set forth above and the following terms shall have the respective meanings set forth below. Capitalized terms not otherwise defined herein shall have the meaning given them in the Garage Project Lease.

“Apartments” means accommodations for residents containing separate and complete facilities for living, sleeping, eating, cooking (equipped with a cooking range or microwave oven, refrigerator and sink) and sanitation comprising the Market Rate Housing Project that are available for occupancy.

“Code” means the Internal Revenue Code of 1986, as amended, together with corresponding and applicable final and temporary or proposed regulations and revenue rulings issued or amended with respect thereto by the Department of the Treasury or the Internal Revenue Service of the United States. All references herein to sections, paragraphs or other subdivisions of the Code or the regulations promulgated thereunder shall be deemed to be references to correlative provisions of any successor code or regulations promulgated thereunder.

“Closing Date” means the date that the Housing Land and Housing Easements are conveyed by the County to the Developer.

“First Occupied” means the date of first occupancy of an Apartment in the Market Rate Housing Project

“Functionally Related and Subordinate” shall mean and include facilities (other than Apartments) for use by residents; for example, laundry facilities, parking areas, open spaces and other recreational facilities and other facilities which are reasonable required for the Market Rate Housing Project (including heating and cooling equipment, trash disposal equipment and Apartments for resident managers or maintenance personnel); provided that such facilities are of a character and size commensurate with the character and size of the Market Rate Housing Project.

“Ground Leases” means collectively, the Transit Center Ground Lease and the Garage Ground Lease.

“Housing Covenants means collectively, this Regulatory Agreement and that certain Housing Covenant and Regulatory Agreement (South Kirkland T.O.D. – Affordable Housing Project) (the “Affordable Housing Covenant”) to be executed concurrently herewith by and among the Developer, the County and Imagine.

“Occupancy Date” means the date on which at least 10% of the Apartments in the Market Rate Housing Project are First Occupied.

“Owner” means KTOD Developer, L.L.C., a Washington limited liability company, its successors and permitted assigns.

“Project Leases” means collectively, the Transit Center Project Lease and the Garage Project Lease

“Regulatory Agreement” or “Agreement” means this Regulatory Agreement, as the same may be amended from time to time

2. Development of Market Rate Housing Project. Developer and Owner agree to design, develop and construct a multifamily rental housing project within the boundaries of the Market Rate Condominium Unit of the condominium recorded against the Housing Land containing a minimum of 177 apartment units containing a mixture of studio apartments, one-bedroom units and two-bedroom units, approximately 8,000 square feet of ground floor commercial or retail space, together with underground parking for 295 cars, open space, public plaza, landscaped areas and such other tenant amenities and ancillary improvements as may be required by the permitting jurisdiction (the “Market Rate Housing Project”). The Market Rate Housing Project shall be designed, constructed and operated so that Developer and/or Owner (a) obtains at least a Leadership in Energy and Environmental Design (“LEED”) Silver rating from the U.S. Green Building Council (“USGBC”) with respect to the parking garage component and (b) obtains at least a Build Green 4-star rating from the Master Builders Association of King and Snohomish Counties (“MBA”) with respect to the residential components of the Market Rate Housing Project.

3. Market Rate Housing Covenant. At all times during the term of this Regulatory Agreement, the portion of the Housing Land constituting the Market Rate Condominium Unit and the Market Rate Housing Project shall be used solely for the development, construction, use and lease of 177 apartment units and 8,000 square feet of ground floor space for commercial and retail uses consistent with operation of a Transit Center on the County’s adjoining land. Nothing contained in this Agreement precludes a decision by either Developer or Owner to elect to participate in the City of Kirkland’s Multifamily Housing Property Tax Exemption (“MFTE”) Program, codified at Kirkland Municipal Code (KMC) 5.88, as amended. Developer and Owner shall have the sole and complete responsibility for filing any applications with the City of Kirkland’s Director of the Department of Planning and Community Development and submitting any reports or other information as may be required by the City of Kirkland under its MFTE Program. The County makes no representation or warranty as to the qualification of the Market Rate Housing Project under the City of Kirkland’s MFTE Program.

4. Operation of the Market Rate Housing Project; Transportation Management Plan.
At all times during the term of this Regulatory Agreement, Developer and Owner hereby represents, covenants and agrees as follows:

(a) The Market Rate Housing Project is being constructed, and equipped for the purpose of providing residential rental accommodations containing Apartments and facilities Functionally Related and Subordinate to such Apartments, as described in Section 142(d) of the Code;

(b) All of the Apartments in the Market Rate Housing Project shall contain complete and separate facilities for living, sleeping, eating, cooking (equipped with a cooking range or microwave oven, refrigerator and sink) and sanitation for a single person or a household;

(c) Once available for occupancy, each Apartment in the Market Rate Housing Project shall be rented or available for rental on a continuous basis for the term of this Regulatory Agreement in compliance with this Regulatory Agreement and applicable state and federal laws;

(d) Owner shall not take any steps to convert the Apartments located within the Market Rate Housing Project to condominium ownership during the first five (5) years of the term of this Regulatory Agreement;

(e) Approximately 8,000 square feet of ground floor space in the Market Rate Housing Project shall be rented for commercial or retail uses that will support transit riders, residents of the Affordable Housing Project and Market Rate Housing Project and the surrounding neighborhood;

(f) Following completion of construction, Developer and/or Owner shall submit all documentation to USGBC and MBA, respectively, required to obtain a LEED silver rating with respect to the parking garage building shell and core and Build Green 4-star rating with respect to the residential components of the Market Rate Housing Project, and shall provide evidence of such LEED rating and Green Build certification to the County promptly following receipt thereof. Owner shall operate the Market Rate Housing Project in a manner consistent with, and shall take all actions reasonably necessary to maintain, the LEED silver rating and Build Green 4-star certification with respect to the parking garage and residential component of the Market Rate Housing Project; and

(g) Developer and Owner shall develop a transportation management plan that encourages the use of commuting alternatives by residents and tenants of the Market Rate Housing Project other than single passenger car trips. Such alternatives shall include posting of transit/ride share information in a common area, installation of bicycle racks or secure lockers in the parking garage, and the purchase of a minimum of 177 annual bus passes or e-purses at a discounted cost to residents and tenants of the Market Rate Housing Project for a minimum of five (5) years (the "Transportation Management Plan"). The Transportation Management Plan shall be submitted to and approved by the County prior to issuance of a certificate of occupancy for the Market Rate Housing Project and shall be updated annually.

5. Compliance with Legal Requirements.

(a) The Owner shall not discriminate in the leasing of Apartments in the Market Rate Housing Project on the basis of race, color, religion, national origin, ancestry, age, gender, marital status, parental status, participation in the Section 8 program, sexual orientation, disability or use of a service or assistive animal by an individual with a disability.

(b) The Owner shall comply with all applicable federal, state and local laws, rules and regulations dealing with fair housing, including but not limited to: (i) federal housing policy governing nondiscrimination and accessibility, as determined under the Americans with Disabilities Act, the Fair Housing Act of 1968, as amended, the Architectural Barriers Act of 1968; the Housing and Community Development Act of 1974; the Civil Rights Act of 1964; the Civil Rights Act of 1968; the Age Discrimination Act of 1975; (ii) to the extent applicable, the Housing and Urban Development Act of 1968; the Uniform Relocation and Real Property Acquisition Act of 1970; the Stewart B. McKinney Homeless Assistance Act; and (iii) the State Environmental Policy Act; State Workers Compensation Industrial Insurance Act; the Washington Law Against Discrimination, RCW 49.60, and the Washington Residential Landlord/Tenant Act, RCW 59.18.

(c) The Owner covenants and agrees that the number of Apartments in the Market Rate Housing Project that are or will be constructed to be "handicapped-accessible," as such term is set forth in state building standards for serving disabled residents, will be consistent with the applicable building code requirements for the Market Rate Housing Project.

Any failure of the County to enforce the requirements of this Section 5 shall not constitute a waiver of the Owner's obligations to comply with such requirements. Any violation of this Section 5 shall be considered an Event of Default under this Regulatory Agreement.

6. Reporting Requirements. Upon completion of the Market Rate Housing Project Owner shall provide the County with a Certificate of Occupancy issued by the City of Kirkland. Commencing with January 15th of each year following the Occupancy Date and no later than January 15th of each year thereafter during the term of this Regulatory Agreement, Owner shall provide County with an annual report summarizing leasing activity at the Market Rate Housing Project during the previous 12 months, together with supporting documentation in a form reasonably satisfactory to the County demonstrating that it is in compliance with this Regulatory Agreement and the Transportation Management Plan as of January 1 of such year, together with a copy of the most recent Transportation Management Plan. Owner and any of its successors or assigns shall maintain on file, for at least three years after the expiration of the term of this Regulatory Agreement, records of its leasing activities with respect to the Market Rate Housing Project which records shall be open to inspection by the County or any duly authorized representative at any time during normal business hours after reasonable prior notice. To the extent that Owner participates in Kirkland's MFTE Program, Owner shall provide the County with copies of the annual reports and supporting documents it provides the City of Kirkland's Department of Planning and Community Development at the same time it submits such information to the City of Kirkland under the MFTE Program.

7. Term. The Regulatory Agreement shall be for a term commencing upon the Closing Date and shall remain in full force and effect until the later of (i) the date which is ten 10 years after the Occupancy Date, or (ii) the date the County is no longer operating the Transit

Center. Notwithstanding any provision of the Regulatory Agreement to the contrary, in no event shall the Regulatory Agreement remain in effect longer than forty (40) years from the Occupancy Date.

8. Contractual Obligation. This Regulatory Agreement is a contractual obligation of the Parties and is in addition to any affordability or other requirements, if any, which may be imposed by the City of Kirkland as part of its permitting process, under its MFTE Program or otherwise. The obligations set forth in this Regulatory Agreement are not contingent upon the City of Kirkland's approval of the Market Rate Housing Project as eligible for property tax exemption set forth in KMC 5.88, as amended from time to time. Developer and Owner understand, acknowledge and agree that the County would not have entered into the Ground Leases or the Project Leases but for the agreement by the Developer, Imagine and Owner to construct the Housing Project on the Housing Land and the agreement by Developer and Owner to enter into this Regulatory Agreement and the agreement by Developer and Imagine to enter into the Affordable Housing Regulatory Agreement.

9. Covenants to Run with the Land. This Regulatory Agreement shall be recorded in the office of the King County Auditor on the Closing Date in first position as a covenant running with the land binding on the Housing Land, the Market Rate Condominium Unit in any condominium created with respect to the Housing Land, and the Market Rate Housing Project. Developer and Owner understand agree and acknowledge that the County, is the beneficiary of this Regulatory Agreement and that the County has relied on this Regulatory Agreement and the Affordable Housing Regulatory Agreement in determining to convey the Housing Land and the Housing Easements to Developer. The Parties hereby declare their express intent that this Regulatory Agreement and the covenants, restrictions, charges and provisions contained herein, all of which touch and concern the land, shall constitute covenants running with the Housing Land and shall be binding upon the Housing Land, the Market Rate Condominium Unit and the Market Rate Housing Project and all portions thereof, and shall be binding upon Developer (until Developer's conveyance of the Market Rate Condominium Unit to Owner), Owner and any purchaser, grantee, mortgagee, lender or lessee of all or any portion of the Market Rate Condominium Unit and/or the Market Rate Housing Project and any other person or entity having any right, title or interest therein, so long as this Regulatory Agreement shall be in full force and effect, including any mortgagee or any purchaser at a trustee's or sheriff's sale of the interest of Developer and/or Owner in the Market Rate Housing Project following any foreclosure of any mortgage or deed of trust. There shall be no subordination of this Regulatory Agreement to the lien of any mortgage, deed of trust or other encumbrance on the interest of Developer and/or Owner in the Housing Land, the Market Rate Condominium Unit or the Market Rate Housing Project.

10. Defaults; Remedies. Failure to perform any provision of this Regulatory Agreement (including, but not limited to the Transportation Management Plan) shall constitute a default by Developer (or, following conveyance of the Market Rate Condominium Unit to Owner, Owner), if the failure to perform is not cured within thirty (30) days after written notice of such default has been given by the County to the Developer and/or the Owner. If the default cannot reasonably be cured within thirty (30) days after notice then Developer (or, following conveyance of the Market Rate Condominium Unit to Owner, Owner) shall not be in default under this Regulatory Agreement if Developer and/or Owner, as applicable, commences to cure the default within such period and thereafter diligently prosecutes such cure to completion within sixty (60) days after the receipt of such notice. The Parties understand that in the event of a default by

Developer (or, following conveyance of the Market Rate Condominium Unit to Owner, Owner), the County shall be entitled by legal proceedings brought in law or in equity to abate, prevent or enjoin any such violation or attempted violation of the term of this Regulatory Agreement, to recover monetary damages caused by such violation or attempted violation (provided, however, that neither Developer nor Owner shall be liable for special indirect, consequential or punitive damages (as opposed to direct or actual damages caused by such breach such as an obligation by the County to repay the FTA Grant or other federal or state funds used to purchase the Transit Center and/or the Garage)) or to compel specific performance by Developer, Owner or their respective successors and assigns of the obligations of Developer and Owner under this Regulatory Agreement, including the Transportation Management Plan, it being recognized that the County is an express beneficiary of the obligations of Developer and Owner hereunder, which breach cannot be adequately compensated by monetary damages in the event of a default. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any Party entitled to enforce the same or obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time or times.

11. Enforcement of Terms. The benefits of this Regulatory Agreement shall inure to, and may be enforced by the County and its successors and assigns, during the term of this Regulatory Agreement. Notwithstanding the foregoing, the requirements set forth in this Regulatory Agreement shall cease to apply to the Market Rate Housing Project if any of the events specified in Section 12 hereof occur. The Parties hereto agree they will execute and deliver any and all documents and instruments necessary to effectuate the provisions of this Section 11. Violations of the provisions of this Regulatory Agreement shall be enforceable exclusively against the owner of the Market Rate Housing Project at the time that the event of default occurs. The County and its successors, designees and assigns, assume no direct or indirect obligation to any former, present or prospective resident not a party to this Regulatory Agreement for violations of this Regulatory Agreement. This Regulatory Agreement is not intended, and shall not be construed, to create a duty or obligation of the County to enforce any term or provision of this Regulatory Agreement on behalf of, at the request of, or for the benefit of, any person, and no former, present or prospective resident or any other person, firm, governmental entity, organization or corporation shall have any right or cause of action hereunder.

12. Involuntary Termination. The requirements of this Regulatory Agreement shall terminate and be of no further force and effect in the event of involuntary noncompliance with this Regulatory Agreement caused by destruction of the Market Rate Housing Project as a result of fire or other casualty or condemnation, if and only if insurance or condemnation proceeds are not used to restore the Market Rate Housing Project. The Parties hereto understand and agree that, following any foreclosure, transfer of title by deed in lieu of foreclosure or similar event, the provisions of this Regulatory Agreement shall continue to be binding upon the Market Rate Condominium Unit and the Market Rate Housing Project and any mortgage lender, its successors or assigns or any purchaser at foreclosure sale. Upon the termination of this Regulatory Agreement, the Parties hereto agree to execute, deliver and record the appropriate instruments of release and discharge of the terms hereof. Such release is expressly subject to satisfaction of any outstanding obligation owed by Owner to the County under this Regulatory Agreement, or the Transportation Management Plan.

13. Notices. All notices or requests required or permitted under this Regulatory Agreement shall be in writing, shall be personally delivered or sent by certified mail, return receipt requested, postage prepaid, or by facsimile transmission and shall be deemed given when so delivered, received or faxed (provided the fax machine has issued a printed confirmation of receipt). All notices or requests shall be sent to the Parties addressed as follows:

If to Developer: (Until conveyance of Market Rate Condominium Unit to Owner)	Kirkland Park & Ride, LLC 11624 SE 5 th Street, Suite 200 Bellevue, WA 98005 Attn: Gary A. Young Facsimile: (425) 586-7700
With copies to:	Oseran Hahn Spring Straight & Watts, P.S. 10900 NE 4 th Street, Suite 1430 Bellevue, WA 98004 Attn: Matthew B. Straight Facsimile: (425) 455-9201
If to Owner:	KTOD Developer, L.L.C. 11624 SE 5 th Street, Suite 200 Bellevue, WA 98005 Attn: Derek Straight Facsimile: (425) 586-7700
If to County:	King County Property Services Division 500 King County Administration Building 500 Fourth Avenue Seattle, WA 98104 Facsimile: (206) 205-5070
With a copy to:	Manager, Design and Construction King County Metro Transit Division King Street Center Mail Stop KSC-TR-0435 201 Jackson Street Seattle, WA 98104 Facsimile: (206) 684-1803

Any Party may change the address to which notices shall be sent by notice to the other Party in the manner and with the effect set forth in this Section 13.

14. Termination of Rights, Duties and Obligations of Developer. Upon the conveyance of the Market Rate Condominium Unit to Owner, the rights, duties and obligations of Developer under this Regulatory Agreement shall be of no further force or effect as to Developer and all references to Developer with respect to any rights, duties or responsibilities as to the Market Rate Condominium Unit or the Market Rate Housing Project shall refer solely to Owner. Following such conveyance a default by Owner under this Regulatory Agreement shall not constitute a default by Developer or Imagine under any other agreement relating to the South

Kirkland T.O.D. Project nor shall default by either Developer or Imagine under any other agreement relating to the South Kirkland T.O.D. Project constitute a default by Owner under this Regulatory Agreement.

15. Attorneys' Fees. The Developer or Owner, as applicable, hereby agrees to pay the County all costs, expenses and fees, including all reasonable attorneys' fees which may be incurred by the County in enforcing or attempting to enforce this Regulatory Agreement following any event of default on the part of the Developer or Owner, as applicable, hereunder or any of their respective successors or assigns, whether or not a lawsuit is brought, including, but not limited to, all fees and costs incurred on appeal, in any bankruptcy or state receivership or other insolvency, forfeiture or other proceedings, together with all costs, fees and expenses which may be incurred in connection with any amendment to this Regulatory Agreement or otherwise by the County at the request of the Developer and/or Owner. The obligations of Developer and/or Owner under this Section 15 shall survive until all sums due the County under this Regulatory Agreement have been paid in full notwithstanding any termination of this Regulatory Agreement pursuant to Section 12, expiration of the term of this Regulatory Agreement or otherwise.

16. No Conflict with Other Documents. Developer and Owner each agree that they have not executed and will not execute, any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that in any event the requirements of this Regulatory Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.

17. Severability. If any provision or portion of a provision of this Regulatory Agreement is held invalid, illegal or unenforceable in any respect, the invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of any other provision or portion hereof.

18. No Waiver; Remedies. No failure on the part of the County to exercise, and no delay in exercising, any right under this Regulatory Agreement, or the Transportation Management Plan shall operate as a waiver thereof, nor shall any single or partial exercise of any right under any of the aforesaid agreements preclude any other or further exercise thereof or the exercise of any other right from time to time and as often as the County may deem expedient and without notice (except any notice which is specifically required by written agreement). The remedies provided in this Regulatory Agreement or the Transportation Management Plan are cumulative and not exclusive of any remedies provided by law or in equity, now or hereafter existing.

19. Governing Law. This Regulatory Agreement shall be governed by the laws of the State of Washington, and jurisdiction of any action concerning this Regulatory Agreement shall lie exclusively in the King County Superior Court.

20. Fair Construction. The provisions of this Regulatory Agreement shall be construed as a whole according to their common meaning not strictly for or against any Party and consistent with the provisions contained herein in order to achieve the objectives and purposes of this Regulatory Agreement. Each Party hereto and its counsel has reviewed and revised this Regulatory Agreement. Accordingly, this Regulatory Agreement shall be construed without the application of any rule that it be construed against the drafting party.

21. Time is of the Essence. The Parties hereto expressly agree that time is of the essence in the performance of each Party's obligations under this Regulatory Agreement.

22. Counterparts. This Regulatory Agreement may be executed in counterparts and each such counterpart shall for all purposes be deemed to be an original and together shall constitute but one and the same instrument.

23. Authority. Developer and Owner are each limited liability companies, duly organized, validly existing and in good standing under the laws of the State of Washington. The County is a political subdivision of the State of Washington. By execution of this Regulatory Agreement, the Parties represent to one another that they each have authority to enter into and perform their respective obligations under this Regulatory Agreement.

IN WITNESS WHEREOF, the Parties have caused this Regulatory Agreement to be signed by their respective duly authorized representatives, as of the day and year first written above.

OWNER:

DEVELOPER:

KTOD DEVELOPER, L.L.C., a Washington limited liability company

KIRKLAND PARK & RIDE, LLC, a Washington limited liability company

By: _____
Name: _____
Title: _____

By: **KTOD DEVELOPER, L.L.C.**, a Washington limited liability company, Its Manager

By: _____
Name: _____
Title: _____

Date: _____, 2012

Approved as to form:

COUNTY:

Deputy Prosecuting Attorney
King County

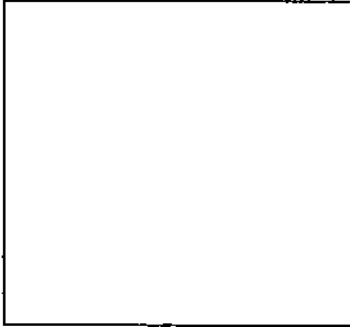
KING COUNTY, a political subdivision of the State of Washington

By: _____
Its: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the _____ of _____, manager of KTOD DEVELOPER, L.L.C., a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



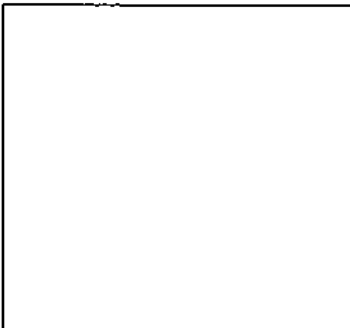
(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of KING COUNTY, a political subdivision of the State of Washington, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



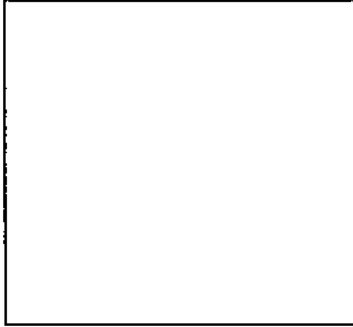
(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of KTOD DEVELOPER, L.L.C., Manager of KIRKLAND PARK & RIDE, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



(Use this space for notarial stamp/seal)

Notary Public
Print Name _____
My commission expires _____

EXHIBIT A

Legal Description
[Name of Project]

Real property located in the City of Kirkland, King County, Washington more particularly described as follows: