

eCopy



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, Washington 98504-7600 • 360-407-6300

January 23, 2024

Gus Goldman
evolution Projects
401 N 36th St, Ste 201
Seattle, WA 98103
gus@evolutionprojects.com

HAND DELIVERED

Re: Transmittal of Signed Environmental Covenant

- **Site name:** Evolution Stone Way
- **Site address:** 3524 Stone Way N, Seattle, King County, WA 98103
- **Facility/Site ID:** 41231
- **Cleanup Site ID:** 15522
- **VCP Project ID:** XN0020

Dear Gus Goldman:

The Washington State Department of Ecology (Ecology) has signed an environmental covenant (EC) on January 23, 2024, affecting King County tax parcel number 1825049074. This letter transmits the hard copy of the signed EC, Exhibits, and supporting plan (EC package in **Enclosure A**).

Next, record the EC package in **Enclosure A** with King County. Do not include this letter as part of the recorded document. Please keep a high-quality copy of the recorded EC for your records, and submit the original (wet signature) recorded hard copy of the EC to Ecology at:

Treasure Mitchell
Expedited VCP Coordinator
Department of Ecology
Toxics Cleanup Program
PO Box 47600
Olympia, WA 98504-7600

Contact Information

If you have any questions about this transmittal, please contact Frank Winslow at 509-424-0543 or frank.winslow@ecy.wa.gov.

Sincerely,



Treasure A. Mitchell
Expedited VCP Coordinator
Toxics Cleanup Program
Headquarters Section

Enclosure: Environmental Covenant to Record

cc by email: Yusuf Pehlivan, Farallon Consulting, ypehlivan@farallonconsulting.com
Lindsay Todaro, evolution Projects, lindsay@evolutionprojects.com
Frank Winslow, frank.winslow@ecy.wa.gov
Erik G. Snyder, Ecology, erik.snyder@ecy.wa.gov
Ecology Site File

Enclosure A

Environmental Covenant Package to Record

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After Recording Return
Original Signed Covenant to:

Erik Snyder
Toxics Cleanup Program HQ
Department of Ecology
P.O. Box 47600
Olympia, Washington 98504

Environmental Covenant

Grantor: Cornerstone 35 LLC
Grantee: State of Washington, Department of Ecology (hereafter "Ecology")
Brief Legal Description: PCL A SEATTLE BLA #2305729 REC #20040219900001 SD BLA
BEING POR OF N 1/2 OF SW 1/4 OF SE 1/4 OF SD STR
Tax Parcel Nos.: 1825049074
Cross Reference: VCP Project No. XN0020

RECITALS

- a.** This document is an environmental (restrictive) covenant (hereafter "Covenant") executed pursuant to the Model Toxics Control Act ("MTCA"), chapter 70A.305 RCW, and Uniform Environmental Covenants Act ("UECA"), chapter 64.70 RCW.
- b.** The Property that is the subject of this Covenant is part or all of a site commonly known as Evolution Stone Way (Cleanup Site ID No. 15522). The Property is legally described in Exhibit A, and illustrated in Exhibit B, both of which are attached (hereafter "Property"). If there are differences between these two Exhibits, the legal description in Exhibit A shall prevail.

c. The Property is the subject of remedial action conducted under MTCA. This Covenant is required because residual contamination remains on the Property after completion of remedial actions. Specifically, the following principal contaminants remain on the Property:

Medium	Principal Contaminants Present
Soil	Carcinogenic polycyclic aromatic hydrocarbons, total petroleum hydrocarbons as diesel- and gasoline-range organics
Groundwater	Arsenic

d. It is the purpose of this Covenant to restrict certain activities and uses of the Property to protect human health and the environment and the integrity of remedial actions conducted at the site. This Covenant includes the following Exhibits:

- Exhibit A – Legal Description
- Exhibit B – Property Map
- Exhibit C – Location of Covenant Restrictions
- Exhibit D – Post-Excavation Cross-Section A-A'
- Exhibit E – Subordination Agreement

Records describing the extent of residual contamination and remedial actions conducted are available through Ecology and accessible at:

<https://apps.ecology.wa.gov/cleanupsearch/site/15522>

e. This Covenant grants Ecology certain rights under UECA and as specified in this Covenant. As a holder of this Covenant under UECA, Ecology has an interest in real property; however, this is not an ownership interest which equates to liability under MTCA or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601 *et seq.* The rights of Ecology as an “agency” under UECA, other than its right as a holder, are not an interest in real property.

COVENANT

Cornerstone 35 LLC, as Grantor and fee simple owner of the Property hereby grants to the Washington State Department of Ecology, and its successors and assignees, the following covenants. Furthermore, it is the intent of the Grantor that such covenants shall supersede any prior interests the GRANTOR has in the property and run with the land and be binding on all current and future owners of any portion of, or interest in, the Property.

Section 1. General Restrictions and Requirements.

The following general restrictions and requirements shall apply to the Property:

- a. Interference with Remedial Action.** The Grantor shall not engage in any activity on the Property that may impact or interfere with the remedial action and any operation, maintenance, inspection or monitoring of that remedial action without prior written approval from Ecology.
- b. Protection of Human Health and the Environment.** The Grantor shall not engage in any activity on the Property that may threaten continued protection of human health or the environment without prior written approval from Ecology. This includes, but is not limited to, any activity that results in the release of residual contamination that was contained as a part of the remedial action or that exacerbates or creates a new exposure to residual contamination remaining on the Property.
- c. Continued Compliance Required.** Grantor shall not convey any interest in any portion of the Property without providing for the continued adequate and complete operation, maintenance, and monitoring of remedial actions and continued compliance with this Covenant.
- d. Leases.** Grantor shall restrict any lease for any portion of the Property to uses and activities consistent with this Covenant and notify all lessees of the restrictions on the use of the Property.
- e. Preservation of Reference Monuments.** Grantor shall make a good faith effort to preserve any reference monuments and boundary markers used to define the areal extent of coverage of this Covenant. Should a monument or marker be damaged or destroyed, Grantor shall have it replaced by a licensed professional surveyor within 30 days of discovery of the damage or destruction.

Section 2. Specific Prohibitions and Requirements.

In addition to the general restrictions in Section 1 of this Covenant, the following additional specific restrictions and requirements shall apply to the Property.

- a. Containment of Soil.** The remedial action for the Property is based on containing contaminated soil under a cap consisting of three-inch thick asphalt pavement and located as illustrated in Exhibit C. The primary purpose of this cap is to minimize the potential for contact with contaminated soil; minimize leaching of contaminants to groundwater; and prevent runoff from contacting contaminated soil. As such, the following restrictions shall apply within the area illustrated in Exhibit C:

Any activity on the Property that will compromise the integrity of the cap including drilling; digging; piercing the cap with sampling device, post, stake or similar device; grading; excavation; installation of underground utilities; removal of the cap; or, application of loads in excess of the cap load bearing capacity, is prohibited without prior written approval by Ecology. The Grantor shall report to Ecology within forty-eight (48) hours of the discovery of any damage

to the cap. Unless an alternative plan has been approved by Ecology in writing, the Grantor shall promptly repair the damage and submit a report documenting this work to Ecology within thirty (30) days of completing the repairs.

The Grantor shall not alter or remove the existing structures on or the asphalt cap over the Property in any manner that would expose contaminated soil, result in a release to the environment of contaminants, or create a new exposure pathway without prior written approval of Ecology. Should the Grantor propose to remove all or a portion of the existing structures or the cap on the Property so that access to the underlying contamination is feasible, Ecology may require treatment or removal of the underlying contaminated soil. Any intrusive subsurface soil work within or beneath the Property must be implemented by Hazardous Waste Operations and Emergency Response (HAZWOPER) trained workers in accordance with a health and safety plan.

b. Groundwater Use. The groundwater beneath the Property remains contaminated and shall not be extracted for any purpose other than temporary construction dewatering, investigation, monitoring, or remediation. Drilling of a well for any water supply purpose is strictly prohibited. Groundwater extracted from the Property for any purpose shall be considered potentially contaminated and any discharge of this water shall be done in accordance with state and federal law.

c. Cap Monitoring Plan. The Grantor shall comply with and implement the requirements of an Operations and Maintenance Plan to be approved by Ecology in writing, until such time that Ecology confirms in writing that the obligations of the Operations and Maintenance Plan are no longer necessary.

d. Stormwater Facilities. To minimize the potential for mobilization of contaminants remaining in the soil on the Property, no stormwater infiltration facilities or ponds shall be constructed on the Property. All new stormwater catch basins, conveyance systems, and other appurtenances located within this area shall be of water-tight construction.

Section 3. Access.

a. The Grantor shall maintain clear access to all remedial action components necessary to construct, operate, inspect, monitor, and maintain the remedial action.

b. The Grantor freely and voluntarily grants Ecology and its authorized representatives, upon reasonable notice, the right to enter the Property at reasonable times to evaluate the effectiveness of this Covenant and associated remedial actions, and enforce compliance with this Covenant and those actions, including the right to take samples, to inspect any remedial actions conducted on the Property, and to inspect related records. The grant of access to Ecology under this Section is subject to:

- i.** Grantor's reasonable health and safety requirements.
- ii.** Grantor's option to accompany Ecology while Ecology is present on the Property.

- c. No right of access or use by a third party to any portion of the Property is conveyed by this instrument.

Section 4. Notice Requirements.

a. **Conveyance of any Interest:** The Grantor, when conveying any title, easements, and security or other instruments (other than leases & licensing agreements that do not provide the lessee or licensee thereof with express access rights to any area of the Property described and illustrated in Exhibits C or D) within the area of the Property described and illustrated in Exhibit A, must:

- i. Provide written notice to Ecology of the intended conveyance at least ten (10) days in advance of the conveyance.
- ii. Include in the conveying document a notice in substantially the following form, as well as a complete copy of this Covenant:

NOTICE: THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT GRANTED TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY ON [DATE] AND RECORDED WITH THE KING COUNTY RECORDER'S OFFICE UNDER RECORDING NUMBER [RECORDING NUMBER]. USES AND ACTIVITIES ON THIS PROPERTY MUST COMPLY WITH THAT COVENANT, A COMPLETE COPY OF WHICH IS ATTACHED TO THIS DOCUMENT.

- iii. Unless otherwise agreed to in writing by Ecology, provide Ecology with a complete copy of the executed document within thirty (30) days of the date of execution of such document.

b. **Reporting Violations.** Should the Grantor become aware of any violation of this Covenant, Grantor shall promptly report such violation in writing to Ecology.

c. **Emergencies.** For any emergency or significant change in site conditions due to Acts of Nature (for example, flood or fire) resulting in a violation of this Covenant, the Grantor is authorized to respond to such an event in accordance with state and federal law. The Grantor must notify Ecology in writing of the event and response actions planned or taken as soon as practical but no later than within one business day of the discovery of the event.

d. **Notification procedure.** Any required written notice, approval, reporting or other communication shall be personally delivered or sent by first class mail or delivered via e-mail (with copy to follow via first class mail) to the following persons. Any change in this contact information shall be submitted in writing to all parties to this Covenant. As an alternative to providing written notice and change in contact information by mail, these documents may be provided electronically in an agreed upon format at the time of submittal.

<p>Ian Loveless 401 N 36th St, Suite 201, Seattle, WA 98103 (425) 404-1811 ian@evolutionprojects.com</p>	<p>Washington State Department of Ecology Attn: Environmental Covenants Coordinator Toxics Cleanup Program P.O. Box 47600 Olympia, WA 98504 – 7600 (360) 407-6000 ToxicsCleanupProgramHQ@ecy.wa.gov</p>
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Section 5. Modification or Termination.

- a. Grantor must provide written notice and obtain approval from Ecology at least sixty (60) days in advance of any proposed activity or use of the Property in a manner that is inconsistent with this Covenant. For any proposal that is inconsistent with this Covenant and permanently modifies an activity or use restriction at the Property:
 - i. Ecology must issue a public notice and provide an opportunity for the public to comment on the proposal.
 - ii. If Ecology approves of the proposal, the Covenant must be amended to reflect the change before the activity or use can proceed.
- b. If the conditions at the site requiring a Covenant have changed or no longer exist, then the Grantor may submit a request to Ecology that this Covenant be amended or terminated. Any amendment or termination of this Covenant must follow the procedures in MTCA and UECA and any rules promulgated under these chapters.
- c. By signing this agreement, per RCW 64.70.100, the original signatories to this agreement, other than Ecology, agree to waive all rights to sign amendments to and termination of this Covenant.

Section 6. Enforcement and Construction.

- a. This Covenant is being freely and voluntarily granted by the Grantor.
- b. Within thirty (30) days of execution of this Covenant, Grantor shall provide Ecology with an original signed Covenant and proof of recording and a copy of the Covenant and proof of recording to others required by RCW 64.70.070.
- c. Ecology shall be entitled to enforce the terms of this Covenant by resort to specific performance or legal process. All remedies available in this Covenant shall be in addition to any and all remedies at law or in equity, including MTCA and UECA. Enforcement of the terms of this Covenant shall be at the discretion of Ecology, and any forbearance, delay, or omission to exercise its rights under this Covenant in the event of a breach of any term of this Covenant is not

a waiver by Ecology of that term or of any subsequent breach of that term, or any other term in this Covenant, or of any rights of Ecology under this Covenant.

d. The Grantor shall be responsible for all costs associated with implementation of this Covenant. Furthermore, the Grantor, upon request by Ecology, shall be obligated to pay for Ecology's costs to process a request for any modification or termination of this Covenant and any approval required by this Covenant.


e. This Covenant shall be liberally construed to meet the intent of MTCA and UECA.

f. The provisions of this Covenant shall be severable. If any provision in this Covenant or its application to any person or circumstance is held invalid, the remainder of this Covenant or its application to any person or circumstance is not affected and shall continue in full force and effect as though such void provision had not been contained herein.

g. A heading used at the beginning of any section or paragraph or exhibit of this Covenant may be used to aid in the interpretation of that section or paragraph or exhibit but does not override the specific requirements in that section or paragraph.

The undersigned Grantor warrants he/she holds the title to the Property and has authority to execute this Covenant.

EXECUTED this 2nd day of January, 2024.



(signature)

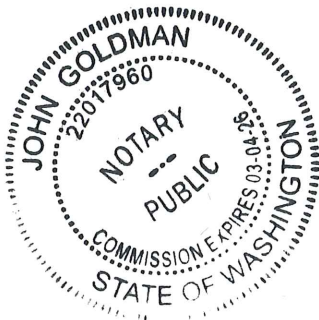
by: MANA Bryce Phillips
(printed name)


Title: Manager

STATE OF Washington

COUNTY OF King

On this 2nd day of January, 2024, I certify that Bryce Phillips personally appeared before me, acknowledged that **he/she** is the individual described herein and who executed the within and foregoing instrument and signed the same at **his/her** free and voluntary act and deed for the uses and purposes therein mentioned.





Notary Public in and for the State of Washington

Residing at Seattle, Washington

My appointment expires 03-04-26

The Department of Ecology hereby accepts the status as GRANTEE and HOLDER of the above Environmental Covenant.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY


(signature)

by: Erik Snyder

Title: Toxics Cleanup Program HQ Section Manager

Dated: 1/23/2024

STATE OF Washington

COUNTY OF Thurston

On this 23rd day of January, 2024, I certify that Erik Snyder personally appeared before me, acknowledged that he is the individual described herein and who executed the within and foregoing instrument and signed the same at his free and voluntary act and deed for the uses and purposes therein mentioned.



Notary Public in and for the State of Washington

Residing at Rochester, WA

My appointment expires 5/31/2027



Exhibit A**LEGAL DESCRIPTION**

The land referred to is situated in the County of King, City of Seattle, State of Washington, and is described as follows:

That portion of Government Lot 2 in Section 18, Township 25 North, Range 4 East, W.M., in King County, Washington, described as follows:

Commencing at the intersection of the Northerly margin of North 35th Street as now existing 60.00 feet in width, with the East margin of Stone Way North, as existing 90.00 feet in width;

THENCE North $01^{\circ} 22' 19''$ East along the East margin of Stone Way North, 103.00 feet to the True Point of Beginning of this description;

THENCE at right angles South $88^{\circ} 37' 41''$ East 144.82 feet to an intersection with a line 0.50 feet West of and parallel with the West line of Block 11 in the PLAT OF EDGEWATER ADDITION TO THE CITY OF SEATTLE, recorded in Volume 3 of Plats on page 141, records of said County; THENCE due North along said Parallel line 8.37 feet to an intersection with the Westerly extension. of the South line of Lot 7 in said Block 11;

THENCE North $78^{\circ} 03' 40''$ west parallel with the Northerly margin of North 35th Street, 7.57 feet to an intersection with a line 8.00 feet West of and parallel with the West line of said Block 11 in the PLAT OF EDGEWATER ADDITION;

THENCE due North along said Westerly line 245.58 feet more or less to the South margin of North 36th Street, as now existing 60.00 feet in width;

THENCE North $89^{\circ} 48' 48''$ west along said South margin of North 36th Street 131.23 feet to said East margin of Stone Way North;

THENCE South $01^{\circ} 22' 19''$ west, 252.57 feet along said East margin to the True Point of Beginning.

(ALSO KNOWN AS Parcel A of Lot Boundary Line Adjustment No. 2305729, recorded under Recording No. 20040219900001, records of King County, Washington.)

SITUATE in the County of King, State of Washington.

Exhibit D

POST-EXCAVATION CROSS SECTION A-A'

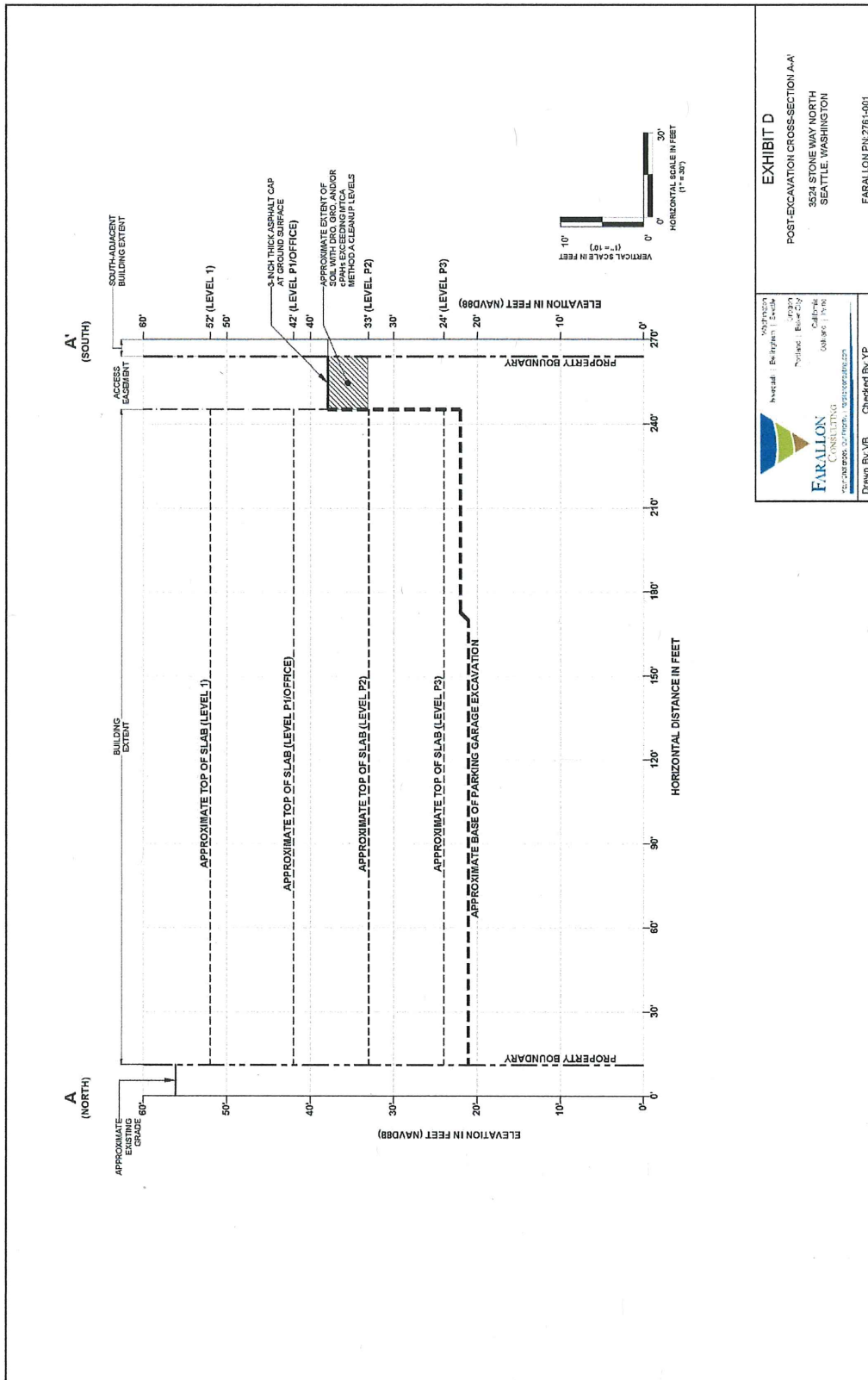


EXHIBIT D

POST-EXCAVATION CROSS-SECTION A-A'

3524 STONEWAY NORTH
SEATTLE, WASHINGTON

FARALLON P/L 2761-001

Drawn By: VB Checked By: YP

FARALLON

CONSULTING ENGINEERS

1000 1st Avenue, Suite 200
Seattle, WA 98101

Phone: 206.461.1234
Fax: 206.461.1235
Email: info@farallon.com

Investment Engineering Excavation

Portland Eugene Salem

San Francisco San Jose San Diego

Los Angeles San Francisco San Jose

San Francisco San Jose San Diego

Exhibit E

SUBORDINATION AGREEMENT

KNOW ALL PERSONS, That WRCR JV LLC, the owner and holder of that certain easement bearing the date the 27th day of September, 2022, executed by Cornerstone 35 LLC, fee owner, and recorded in the office of the County Recorder of King County, State of Washington, on 10/25/2022 under Recorder's File Number 20221025000614, does hereby agree that said Instrument shall be subordinate to the interest of the State of Washington, Department of Ecology, under the environmental (restrictive) covenant dated _____, executed by William R. Ray, and recorded in King County, Washington under Recorder's File Number _____.

William R Ray
(signature)

by: William R. Ray

Title: Manager

Dated: 1/3/24

STATE OF Washington

COUNTY OF Jefferson

On this 3 day of January, 2023, I certify that William R. Ray personally appeared before me, acknowledged that he is the individual described herein and who executed the within and foregoing instrument and signed the same at his free and voluntary act and deed for the uses and purposes therein mentioned.



May Wang Andersen
Notary Public in and for the State of Washington


Residing at Port Ludlow

My appointment expires 10/20/2025

Exhibit E

SUBORDINATION AGREEMENT

KNOW ALL PERSONS, That 3521 Interlake Ave N eP LLC, the owner and holder of that certain easement bearing the date the 27th day of September, 2022, executed by Cornerstone 35 LLC, fee owner, and recorded in the office of the County Recorder of King County, State of Washington, on 10/25/2022, under Recorder's File Number 20221025000614, does hereby agree that said Instrument shall be subordinate to the interest of the State of Washington, Department of Ecology, under the environmental (restrictive) covenant dated _____, executed by Bryce Phillips and recorded in King County, Washington under Recorder's File Number _____.



 (signature)

by: Bryce Phillips

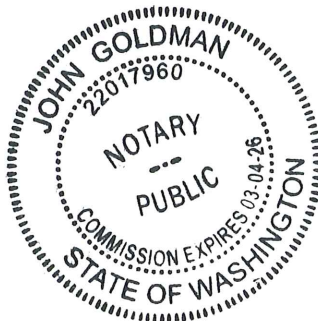
Title: Manager


Dated: 01/02/2024

STATE OF Washington

COUNTY OF King

On this 2nd day of January, 2024, I certify that Bryce Phillips personally appeared before me, acknowledged that he is the individual described herein and who executed the within and foregoing instrument and signed the same at his free and voluntary act and deed for the uses and purposes therein mentioned.





 Notary Public in and for the State of Washington

Residing at Seattle, WA

My appointment expires 03/04/26