

When Recorded Return To:
City of Vancouver
CDBG and HOME Programs
PO Box 1995
Vancouver, WA 98668-1995
Attention: Peggy Sheehan, (360) 487-7952

**CITY OF VANCOUVER, WASHINGTON
LOW INCOME HOUSING IMPACT FEE WAIVER COVENANT AGREEMENT**

Grantor: Ginn Group LLC

Grantee: City of Vancouver

Assessor’s Tax ID#: 30449000

Legal Description: Full legal description attached as Exhibit A

Address: 2705 Neals Lane, VANCOUVER, 98661

COVENANT RUNNING WITH THE LAND:

This COVENANT is made and effective this ____ day of _____, 2020, and by Ginn Group LLC to the CITY OF VANCOUVER, State of Washington (hereinafter the “City”).

Recitals.

- A. Ginn Group LLC is the owner or party in interest of certain real property with tax ID # 30449000 and abbreviated legal description of Parcel #4 of HIDDEN HOMESTEAD LOTS LOT 7 IN THE SW 1/4, SECT 24, T2N, R1E, WM, more particularly described in Exhibit “A” attached hereto and incorporated herein by reference (hereafter the “Property”).
- B. All of the development on the Property shall be low income housing to be owned and occupied by, or leased to, low-income persons with income no greater than eighty percent of the median family income adjusted for family size for Clark County, Washington, as reported by the United States Department of Housing and Urban Development.
- C. For the purposes of this covenant, low income housing is defined as housing for which the monthly housing expense is no greater than thirty percent of eighty percent of the median family income adjusted for family size for Clark County, Washington, as reported by the United States Department of Housing and Urban Development.
- D. City of Vancouver approved an 80 percent impact fee waiver of parks and transportation fees for the Property in accordance with Vancouver Municipal Code Section 20.915.080.

Agreement:

NOW, THEREFORE, covenants and agrees, on behalf of itself and all successors and assigns, as follows, it being specifically agreed that this is a covenant which touches, concerns, enhances, benefits and runs with the land:

- E. Ginn Group LLC is the sole and exclusive owner or party of interest of the Property in Clark County, State of Washington, described in Exhibit “A” hereto.

Low Income Housing Impact Fee Waiver Covenant (Continued)

F. Property shall not be used for any purpose other than for low income housing defined by Vancouver Municipal Code 20.915.080, attached as Exhibit "B" hereto.

G. In the event that that the Property is converted to a use other than for low income housing, the owner must pay the applicable impact fees in effect at the time of conversion.

H. This covenant and all of its provisions shall be binding upon Ginn Group LLC and any and all of its assigns and successors in interest into show ownership the PROPERTY may pass, and any obligations made herein by Ginn Group LLC shall be enforceable against all of its assigns and successors in interest into whose ownership the Property may pass, and all of them, except as this covenant shall expressly provide to the contrary.

I. Those signatories who sign on behalf of a corporation are expressly vested by the by-laws of the corporation which they purport to represent with the authority to bind such corporation in the manner in which such signatories have purported to bind their principal herein.

J. In the event of any litigation arising hereunder, or with respect hereto, the law of the State of Washington will control and, and all signatories hereto, do hereby submit themselves personally to the jurisdiction of the courts of the State of Washington, and do hereby agree that any action arising hereunder may be instituted in Clark County Superior Court, if the parties are served, including anywhere not within the State of Washington, by any method authorized by Washington law. Reasonable attorney fees shall be awarded to the substantially prevailing party.

K. This covenant shall remain in full force and effect until amended, modified, or terminated by the action of the City in proceedings appropriate for that purpose.

L. A copy of this covenant will be filed with the County Auditor.

IN WITNESS HEREOF, Ginn Group LLC, a Washington State Corporation, has executed this Covenant on the _____ day of _____, 2020.

OWNER: _____

By: Ginn Group LLC – Manager

Print Name: Patrick Ginn

CORPORATE NOTARY

STATE OF _____)
)ss
COUNTY OF _____)

On this ____ day of _____, 20____ before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____, known to me as the [title] _____ of Ginn Group LLC, a Washington corporation, the entity that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of the said entity, for uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute the said instrument on behalf of the said entity.

WITNESS my hand and official seal hereto the day and year in the certificate above written.

NOTARY PUBLIC in and for the State of _____,
My Commission Expires: _____

Place notary seal centered on page below

**EXHIBIT A:
SITE LEGAL DESCRIPTION**

This EXHIBIT A is attached to and part of the COVENANT dated as of _____, 2020 between Ginn Group LLC as “Grantor”, and the CITY OF VANCOUVER, WASHINGTON, as “Grantee”.

Tax ID #: 30449000

Description:

2705 Neals Lane, Vancouver, WA 98661

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF VANCOUVER, COUNTY OF CLARK, STATE OF WASHINGTON AND IS DESCRIBED AS FOLLOWS:

That portion of Lot 7, Hidden Homestead Lots, according to the plat thereof, recorded in Volume A of Plats, Page 068, records of Clark County, Washington, described as follows:

BEGINNING at a point 82.5 feet South of the Northwest corner of said Lot 7; thence South along the West line of said Lot, 82.5 feet to the North line of the A.C. Childs tract as set forth in Deed recorded in Book 137, Page 450; thence East 264 feet; thence North 82.5 feet to a point East of the point of beginning; thence West 264 feet to the point of beginning.

EXHIBIT B:
Vancouver Municipal Code 20.915.080

Chapter 20.915
IMPACT FEES

20.915.080 Impact Fee Exemptions, Reductions, and Waivers.

A. *Exemptions from impact fees.* The following developments shall be exempt from the requirement for payment of impact fees: publicly operated elementary, middle, junior high and senior high schools, and administrative, maintenance and other facilities of a school district and facilities of an Educational Service District.

B. Exemption or waiver from impact fees for low income housing pursuant to RCW [82.02.060\(2\)](#). Pursuant to RCW [82.02.060\(2\)](#), the Review Authority may grant a total or partial exemption or waiver from impact fees for housing developments containing up to three dwelling units and qualifying as low-income housing as defined in this Chapter, to be owned and occupied by, or leased to, low-income persons. Requests for exemption and/or waiver for four or more dwelling units must be approved by the City Council. No such impact fee exemption and/or waiver shall be granted for any low income housing that has been granted a property tax exemption pursuant to VMC [3.22](#), Multi-family Tax Abatement. Any such exemption or waiver shall be subject to:

1. Provision being made for payment of the impact fee from public funds other than impact fee accounts; and
2. Adequate documentation that the housing meets appropriate standards regarding household income, rent levels, sales price, location, and number of units;

C. Alternative exemption from impact fees for low-income housing pursuant to RCW [82.02.060\(3\)](#). Pursuant to RCW [82.02.060\(3\)](#), the City Council may grant an alternative exemption for low-income housing under this Subsection C. No such impact fee exemption and/or waiver shall be granted for any low income housing that has been granted a property tax exemption pursuant to VMC [3.22](#), Multi-family Tax Abatement

1. The City Council may either:
 - a. Grant a partial exemption of not more than eighty percent of impact fees, in which case there is no requirement to pay the exempted portion of the fee from public funds other than impact fee accounts; or
 - b. Provide a full waiver, in which case the remaining percentage of the exempted fee must be paid from public funds other than impact fee accounts; and
2. Compliance with all of the requirements of Subsection D of VMC [20.915.080](#) is required.

D. An exemption for low-income housing granted under Subsection [B](#) or [C](#) of this section must comply with all of the following conditions:

1. The developer shall record a covenant with the Clark County Auditor. The covenant must:
 - a. Prohibit using the property for any purpose other than for low-income housing.
 - b. Require that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion.
 - c. Define low-income housing as housing for which the monthly housing expense is no greater than thirty percent of eighty percent of the median family income adjusted for family size for Clark

County, Washington, as reported by the United States Department of Housing and Urban Development.

- 2. When the City grants an exemption for low-income housing granted under Subsection [B](#) or [C](#) of this section, it may not collect revenue lost through the granting of the exemption by increasing impact fees unrelated to the exemption.
- 3. A school district that receives school impact fees collected by the City must consent in writing prior to City approval of any exemption from school impact fees granted under Subsection [B](#) or [C](#) of this section. Failure of a school district to provide consent in writing within 30 days of written request for approval by the City shall constitute disapproval of the requested exemption.

E. *Reduction in traffic impact fees for qualifying businesses.* To promote business development, the Review Authority may grant a reduction of traffic impact fees as specified in Table 20.915.080-1 below for businesses which meet all of the following requirements:

- 1. The business owner shall commit, through a Development Agreement approved by City Council, to locate a number of new employees that coincides with the TIF incentive in Table 20.915.080-1. Such new employees shall locate to the City within the first year of the business obtaining an occupancy permit; and
- 2. The median salary of all company employees to be located shall, at a minimum, coincide with the specified percent of median individual income in Table 20.915.080-1. Median individual income shall be based on the most recent available information from US Department of Housing and Urban Development for the Portland-Vancouver MSA at the time of the Development Agreement approval; and
- 3. If the owner or developer of the property or building is not the business locating within the city, documentation shall be submitted to the City that satisfactorily demonstrates that the business received the benefit of the fee reduction rather than the owner or developer; and
- 4. The business shall provide the city with such documentation and access to records as needed to verify satisfaction of the foregoing requirements. In the event that the business fails to satisfy any of the requirements criteria, the business shall pay to the city the amount of the fee reduction together with interest at the statutory rate provided for at RCW [19.52.010](#) upon demand.

The city shall make provision for payment of the impact fee reduction to the transportation impact fee account from public funds other than impact fee accounts.

Table 20.915.080-1 Business Development TIF Incentive			
Median Salary of All Business Employees		Minimum Employees	TIF Benefit
1.	200% of Median Individual Income	200	25% TIF reduction, up to \$100,000
2.	150% of Median Individual Income	250	25% TIF reduction, up to \$100,000
3.	125% of Median Individual Income	300	25% TIF reduction, up to \$100,000
4.	200% of Median Individual Income	400	50% TIF reduction, up to \$200,000
5.	150% of Median Individual Income	500	50% TIF reduction, up to \$200,000
6.	125% of Median Individual Income	600	50% TIF reduction, up to \$200,000

This provision shall be operative until December 31, 2020 unless renewed by City Council.

F. *Criteria for calculating impact fees.* The impact fee for an exempt or waived development shall be calculated as provided for in this Chapter and paid with public funds; except that there is no requirement to pay the exempted portion of the fee from public funds other than impact fee account for a partial exemption of not more than eighty percent of impact fees that has been approved under Subsection C of VMC [20.915.080](#). Such payment may be made by including such amount(s) in the public share of system improvements undertaken within the applicable service area. If an impact fee(s) is waived, the Review Authority, pursuant to Section [20.915.070](#) VMC, or state law may determine whether a public share-contribution or a reduced public-share contribution is required. (Ord. M-4154 § 3, 01/04/2016; Ord. M-4108 § 1, 12/01/2014; Ord. M-3643, 01/26/2004)

The Vancouver Municipal Code is current through Ordinance M-4294, passed April 29, 2020.

Disclaimer: The city clerk's office has the official version of the Vancouver Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.