

After Recording Return to:
Housing and Community Services
Attn: Single Family Housing Section
725 Summer Street, Suite B
Salem, OR 97301-1266

SPACE ABOVE FOR RECORDERS USE

**HOUSING AND COMMUNITY SERVICES DEPARTMENT
STATE OF OREGON**

SUBORDINATION AND LIMITATION AGREEMENT

This Subordination and Limitation Agreement (this "Subordination") is made and entered into this 24th day of June, 2014, by and among:

PARTIES:	Borrower:	Josey R. Kinnaman 5734 NE Sumner St. Portland, Oregon 97218
	County:	Multnomah County, Oregon, a political subdivision of the State of Oregon with its principal office and post office address at 501 SE Hawthorne Portland, Oregon 97214
	Community:	Community Vision, Inc., an Oregon non-profit corporation with its principal office and post office address at 1750 SW Skyline Blvd., Suite 102 Portland, Oregon 97221
	Department:	The State of Oregon, acting by and through its Housing and Community Services Department, with its principal office and post office address at 725 Summer Street, NE, Suite B Salem, Oregon 97301-1266

RECITALS

- A. On or about May 27, 2010, County, as grantor, executed a Bargain And Sale Deed (the "Deed") to Community, as grantee, as authorized under ORS 271.330(2), conveying certain real property more particularly described in Exhibit A, attached hereto (the "Property"), which it previously had obtained by tax foreclosure.

- B. The Deed was recorded in the official records of Multnomah County on or about June 11, 2010, as document number 2010-072673.
- C. On or about May 27, 2010, County entered into a Low Income Housing Development Agreement (the "Agreement") with Community memorializing the terms by which County conveyed ownership of the Property to Community, including certain restrictive covenants, terms and conditions with respect to the Property, and, *inter alia*, obligating Community to use the Property for the purpose of low income housing.
- D. The Agreement was recorded in the official records of Multnomah County on or about June 18, 2010, as document number 2010-075639.
- E. On or about _____, 2014, Borrower entered into an Affordable Housing Covenant (the "Covenant") with Community by which, *inter alia*, Borrower agreed to certain terms and conditions with respect to purchase, financing, use, and sale of the Property.
- F. The Covenant was recorded in the official records of Multnomah County on or about _____, 2014, as document number _____.
- G. The Deed, the Agreement, and the Covenant are hereinafter collectively referred to as the "Junior Documents" and any single such document may be referred to as a "Junior Document." The rights, titles, liens, encumbrances, restrictive covenants, equitable servitudes, or other interests created by or arising from the Junior Documents, including with respect to the Property, are hereinafter collectively referred to as the "Junior Interests" and any single such interest may be referred to as a "Junior Interest."
- H. County and Community are hereinafter collectively referred to as the "Junior Interestholders" and either such party may be referred to as a "Junior Interestholder."
- I. The Department has purchased, or intends to purchase, a loan made to Borrower in the approximate amount of \$154,200.00 (the "Loan") to finance Borrower's purchase of the Property from Community. The Loan indebtedness is evidenced by a promissory note dated _____, 2014, (the "Note"), of which the Department is or will be the holder, and the indebtedness is further evidenced and secured by a deed of trust dated _____, 2014, (the "Trust Deed"), which Trust Deed was recorded in the official records of Multnomah County on or about _____, 2014, as document number _____.
- J. The Note, Trust Deed, and any other document executed with respect to the Loan are hereinafter collectively referred to as the "Senior Documents" and any single such document may be referred to as a "Senior Document." The rights, titles, liens, encumbrances, restrictive covenants, equitable servitudes, or other interests created by or arising from the Senior Documents, including with respect to the Property, are hereinafter collectively referred to as the "Senior Interests" and any single such interest may be referred to as a "Senior Interest."
- K. The Junior Interestholders have agreed: (i) to subordinate and make inferior the Junior Documents to the Senior Documents; (ii) to subordinate and make inferior the Junior Interests to the Senior Interests; (iii) to subordinate Junior Interestholders' rights to enforce the Junior Interests to the right of the Department to enforce the Senior Interests; (iv) to subordinate Junior Interestholders' rights to receive any payments or other performance under or on account of the Junior Documents to the Department's right to receive payments or other performance under or on account of the Senior Documents; and (v) to limit Junior

Interestholder remedies under or on account of the Junior Documents or Junior Interests as hereinafter described.

- L. Junior Interestholders and Borrower also have agreed to cooperate with the Department, and acknowledge its rights, with respect to the Property, the Senior Documents, and the Senior Interests as herein described.

AGREEMENT

For good and sufficient consideration, including the premises, terms, conditions, and promises set forth below, the parties hereto agree as follows:

1. Incorporation. The foregoing Recitals and the documents referenced therein are incorporated herein by reference to the same extent and with the same force and effect as if fully set forth herein, provided, however, that the Recitals shall not be deemed to modify the express provisions hereinafter set forth.
2. Consent of the Junior Interestholders. Notwithstanding any of the terms of the Junior Documents, the Junior Interestholders and Borrower hereby consent to the creation, now or hereafter, of the Senior Documents and the Senior Interests and to the execution and delivery by Borrower of any and all documents and instruments in connection therewith and to the performance by Borrower or its assigns of any and all of its obligations under or in connection therewith. No such action by Borrower or its assigns shall constitute an event of default or event, which with the passage of time, will become an event of default under any of the Junior Documents or under any document or instrument relating to the Junior Documents or Junior Interests.
3. Subordination of Junior Interests and Related Debt. In consideration of the Department making or purchasing the Loan, any right of the Junior Interestholders, their representatives, successors, or assigns, to payment or other performance under or in respect of the Junior Documents or Junior Interests, together with such Junior Documents and Junior Interests, are hereby expressly subordinated to the prior payment or other performance in full under or in respect of all Senior Documents or Senior Interests, and to the satisfaction of the Senior Documents and Senior Interests. The Senior Interests shall be first, prior, and superior to the Junior Interests.
4. Satisfaction of Senior Document Indebtedness Obligations. Notwithstanding anything provided in the Junior Documents to the contrary, so long as any obligation in favor of the Department under or in respect of the Senior Documents or Senior Interests remains outstanding, unless the Department shall, in its sole discretion, consent in writing: (a) all Senior Document indebtedness obligations shall be paid in full before any payment is made on account of any Junior Document indebtedness obligation; and (b) no prepayment of any Junior Document indebtedness obligation shall be made. In the event that any payment is made to Junior Interestholders on account of the principal, interest, fees, or other amounts on or with respect to the Junior Document obligations which is not permitted hereunder, such payment shall be held by the respective Junior Interestholder in trust for the benefit of the Department and shall be paid forthwith over and delivered to the Department for application to the payment of all of the Senior Document obligations remaining unpaid.
5. Amendments to and Enforcement of Junior Documents or Junior Interests. Notwithstanding anything provided in the Junior Documents to the contrary, so long as any Senior Document obligation remains outstanding, unless the Department shall consent in writing, which such consent shall not be unreasonably withheld, Junior Interestholders shall not (a) amend or modify the provisions of the Junior Documents; or (b) seek to enforce, or otherwise exercise a remedy with respect to the Junior Documents or Junior Interests.

6. Modification of Senior Documents. Without prior notice to or consent of Junior Interestholders and without affecting the liabilities and obligations of Junior Interestholders, the Department may waive, postpone, extend, renew, reduce, modify or amend any provision of the Senior Documents with respect to the payment of money or extend, renew, modify, or amend the terms of any Senior Interest with respect thereof or security therefor and release, transfer, assign, sell, or exchange such Senior Interest or security and otherwise deal freely with Borrower to the same extent as could any person.
7. Subordination of Subrogation Rights. Without limiting any other provision of this Subordination, Junior Interestholders agree that if, by reason of payment by a Junior Interestholder of real estate taxes or other monetary obligations of Borrower pursuant to the Junior Documents, or by reason of a Junior Interestholder's exercise of any other right or remedy under any document executed in connection with the Junior Documents, a Junior Interestholder acquires by right of subrogation or otherwise a lien on the Property that but for this section would be senior to any Senior Interest, then in that event such lien of the Junior Interestholder shall be subject and subordinate to the Senior Interests.
8. No recital, promise, provision, term, condition or covenant in this Subordination shall have application or effect on the assessment, levy, collection or foreclosure of any property taxes, assessments, charges or other liens as allowed by Federal, State, regional or local law with respect to the Property and the County's requisite authority to pursue the assessment, levy, collection or foreclosure of said property taxes, assessments, charges or other liens.
9. Junior Interestholders' Agreement to Standstill. If a default occurs and is continuing under the Junior Documents, the Junior Interestholders agree that, without the Department's prior written consent, which consent the Department may give or withhold at its sole discretion, they will not accelerate the Junior Document indebtedness, commence any enforcement or foreclosure proceeding with respect to the Property arising under any Junior Document or Junior Interest, or exercise any other remedies with respect to the Junior Documents or Junior Interests until the Senior Documents, together with any indebtedness obligations arising thereunder, and the Senior Interests have been satisfied in full.
10. Bankruptcy. Upon any distribution of the assets or properties of Borrower, including the Property, or upon any dissolution, winding up, liquidation, bankruptcy or reorganization involving Borrower (whether in bankruptcy, insolvency or receivership proceedings or upon an assignment for the benefit of creditors or otherwise, herein referred to as a "Proceeding"):
- (a) the Department shall first be entitled to receive payment in full of the principal of and interest on the Loan, of all other obligations, if any, arising under or in respect of the Senior Documents, and of all fees and any other payments (including post-petition interest and all costs and expenses) due pursuant to law or the terms of the Senior Documents, before Junior Interestholders are entitled to receive any payment on account of the Junior Documents or Junior Interests; and
 - (b) any payment or distribution of the assets or properties of Borrower of any kind or character, whether in cash, property, or securities, to which a Junior Interestholder would be entitled except for the provisions of this Subordination, shall be paid by the debtor in possession, liquidating trustee or agent or other person making such payment or distribution directly to the Department; and
 - (c) in the event that, notwithstanding the foregoing, any payment or distribution of the assets or properties of Borrower of any kind or character, whether in cash, property, or securities, shall be received by a Subordinate Lender on account of principal, interest, or other amounts (other than fees) on or with respect to the Junior Documents or Junior Interests before all of the amounts due the Department under or in respect to the Senior Documents or Senior Interests are paid in full, such payment or distribution shall

be received and held in trust for and shall be paid over to the Department forthwith, for application to the payment of the Senior Document and Senior Interest obligations until all such obligations shall have been paid in full in accordance with the terms of the Senior Documents.

This section does not limit the County's remedies with respect to liens subsequently imposed by the County for failure to pay real property taxes on the Property or with respect to other County assessment on the Property.

10. Continuing Benefits. No right of the Department or any present or future holder of the Note or other Senior Document to enforce this Subordination shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of Borrower or any other party, whether borrower, guarantor or otherwise, or by any act or failure to act, in good faith, by the holder of the Note or other Senior Document, or by any noncompliance by Borrower or any borrower, guarantor or otherwise with the terms of the Note or of any other Senior Document regardless of any knowledge thereof which such holder may have or be otherwise charged with.

11. Enforcement of Subordination. Junior Interestholders, by their execution of this Subordination, authorize and expressly direct the Department to take such action as may be necessary or appropriate, in the Department's sole discretion, from time to time to effectuate this Subordination.

12. Assignment of the Senior Documents and Senior Interests. The Department may assign or transfer any or all of the Senior Documents or Senior Interests and any portion therein or herein and, notwithstanding any such assignment or transfer or any subsequent assignment or transfer thereof, such Junior Documents and Junior Interests shall be and remain subject and subordinate to the Senior Documents and Senior Interests and every immediate and successive assignee or transferee of any of the Senior Documents or Senior Interests or of any portion therein or herein shall, to the extent of the interest in same of such assignee or transferee, be entitled to the benefits of this Subordination to the same extent as if such assignee or transferee were the Department; provided, however, that, unless the Department shall otherwise consent in writing, the Department shall have an unimpaired right, prior and superior to that of any such assignee or transferee, to enforce this Subordination, for the benefit of the Department, as to those Senior Document or Senior Interests that the Department has not assigned or transferred.

13. Priority. The priorities herein specified are applicable irrespective of the time of creation of the Senior Liens or the Junior Liens.

14. No Modification to Senior Documents. This Subordination is not intended to modify and shall not be construed to modify any term or provision of the Senior Documents.

15. Miscellaneous.

(a) Severability. The invalidity of any clause, part, or provision of this Subordination shall not affect the validity of the remaining portions thereof.

(b) Notices. All notices to be given pursuant to this Subordination shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth on page one hereof, or to such other place as a party may from time to time designate in writing.

(c) Amendment. Any amendment to this Subordination must be in writing and signed by the parties. The parties may execute and record any amendment or modification to this Subordination and such amendment or modification shall be binding on third-parties granted rights, if any, under this Subordination, the Senior Documents, or the Junior Documents.

(d) Indemnity. Community shall save, hold harmless, indemnify and (subject to ORS chapter 180) defend the State of Oregon, the Department, and their officers, agents, employees, members and assigns, from all suits, actions, claims, losses or damages of whatsoever nature, kind or description related to this Subordination arising out of or related to an act or omission by Community, including but not limited to those acts or omissions of Community's officers, employees, agents, or contractors.

(e) Attorney Fees. In the event a lawsuit is instituted between the Department and Community regarding this Subordination, the prevailing party between the Department and Community under this Subordination shall be entitled to recover from the other its reasonable attorney fees and all costs and disbursements incurred at trial and on appeal. Notwithstanding any other provision in this Subordination or incorporated documents, reasonable fees shall not exceed the rate charged the Department by its attorneys.

(f) Governing Law; Venue: Consent to Jurisdiction. This Subordination shall be governed by the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between or among the parties related to this Subordination shall be conducted exclusively within the Circuit Court of Multnomah County, Oregon or, if necessary, the United States District Court for the District of Oregon. In no event shall this provision be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. BORROWER AND JUNIOR INTERESTHOLDERS, BY EXECUTION OF THIS SUBORDINATION, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

(g) Survival Remedies. Available remedies hereunder or otherwise available at law shall survive the termination of this Subordination.

(h) Time of the Essence. Time is of the essence in the performance of this Subordination.

[Signature pages to follow.]

IN WITNESS WHEREOF, this Subordination has been duly executed as of the date and year first above written.

BORROWER:

Josey R. Kinnaman, an individual

STATE OF OREGON)
 : ss
County of _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2014, by Josey R. Kinnaman who executed the foregoing instrument personally as Borrower.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

STATE OF OREGON)
 : ss
County of _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2014, by _____ who executed the foregoing instrument personally as Borrower.

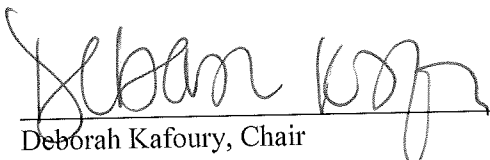
NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

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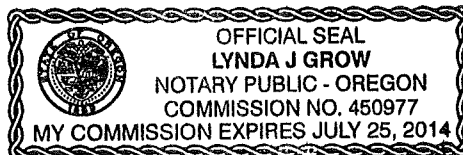
COUNTY:

Multnomah County, Oregon,
a political subdivision of the State of Oregon


By:


Deborah Kafoury, Chair

STATE OF OREGON)
 : ss
County of Multnomah)



The foregoing instrument was acknowledged before me this 19 day of June, 2014, by Deborah Kafoury, Chair, who executed the foregoing instrument for and on behalf of the County.


Lynda J. Grow
NOTARY PUBLIC FOR OREGON
My Commission Expires: 7/25/2014

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COMMUNITY:

Community Vision, Inc.,
an Oregon non-profit corporation

By: _____
Joe Wykowski,
Executive Director

STATE OF OREGON)
 : ss
County of Multnomah)

The foregoing instrument was acknowledged before me this ____ day of _____, 2014, by Joe Wykowski, Executive Director, who executed the foregoing instrument for and on behalf of the corporation.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

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DEPARTMENT:

STATE OF OREGON, acting by and through its
Housing and Community Services Department

By: _____
Print Name: _____
Title: _____

STATE OF OREGON)
 : ss
County of Marion)

The foregoing instrument was acknowledged before me this ____ day of _____ 2014,
by _____, who is the _____, of the _____ of the Housing and
Community Services Department, on behalf of the Department.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

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EXHIBIT A

Real property in the County of Multnomah, State of Oregon, described as follows:

LOT 4 BLOCK 3 PRIMROSE PARK

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