

After recording mail to:
Real Property Manager
3200 Cedar Street
Everett, WA 98201

W.O. #
Riverside Business Park Sanitary Sewer



Tax Account Number

LEGAL DESCRIPTION:

SANITARY SEWER EASEMENT AGREEMENT

THIS AGREEMENT is made this June 1, 2023, between **Riverside Business Park Owners' Association**, a Washington nonprofit corporation, hereinafter referred to as "Grantor," and the **City of Everett**, a municipal corporation under the laws of the State of Washington, hereinafter referred to as "City."

In consideration of mutual benefits to be derived and in consideration of the performance of the covenants, terms and conditions hereinafter set forth, Grantor hereby conveys and warrants the following easement:

A non-exclusive perpetual easement across, along, in, upon and under Grantor's property described below for the purpose of constructing, reconstructing, operating, maintaining and repairing a utility sanitary sewer system, and appurtenances thereto; including all appurtenances attached thereto together with the right of ingress to and egress from said property and across adjacent property of the Grantor and the right to use adjacent property of the Grantor for the purpose of piling dirt and providing trench stabilization during the construction, reconstruction, operation, maintenance and repair of the aforesaid improvement or facility ("Easement").

The Easement is over and across a tract of land situated in the County of Snohomish, State of Washington, and the Easement area is legally described and depicted in Exhibit "A" and Exhibit "B" attached hereto and incorporated herein by reference (the "Easement Area").

The Easement is granted in connection with a bill of sale transferring the sanitary sewer system and appurtenances thereto, from Grantor to City; which bill of sale is contemporaneous with this Agreement. The Easement is granted subject to and conditioned upon the following terms, conditions and covenants which both Grantor and City hereby promise to faithfully and fully observe and perform:

1. Grantor shall at all times conduct its activities and all other activities conducted on Grantor's property so as not to interfere with, obstruct or endanger the usefulness of any improvements, or other facilities, now or hereafter maintained upon the Easement Area, or in any way interfere with, obstruct or endanger the City's use of the Easement.

2. Prior to any construction, work or any other activity by Grantor within the Easement Area, notification and plans for the same shall be submitted in writing to the City by Grantor. No such construction, work or activity by Grantor shall be commenced unless the Grantor can demonstrate to the satisfaction of the City Engineer that such construction, work or activity does not and will not interfere with the City's Easement rights and has obtained the City Engineer's prior written approval, which approval shall not be unreasonably withheld, delayed, or conditioned. PROVIDED, HOWEVER, any changes or revisions in the plans shall also be subject to the City Engineer's prior approval, which approval shall not be unreasonably withheld, delayed, or conditioned. The City's review of the Grantor's plans under this Agreement shall not be deemed to impose any duty or obligation on the City to determine the adequacy or sufficiency of Grantor's plans and designs nor whether Grantor's construction, work or activity is in conformance with other applicable plans, codes and regulations. Further, agreement by the City to such construction,

work or activity shall not in any manner be considered as imposing any obligation, duty or liability upon the City as to the safety or propriety of such construction, work or activity.

3. Grantor hereby authorizes City to cut, trim and remove any and all brush, trees, other vegetation or debris upon the Easement Area and the right of access for such purposes when needed for work on the City's installed utility line. To the extent that the City identifies brush, trees or other vegetation and debris on Grantor's property which, in the City's reasonable judgment, constitutes a hazard to the Easement Area and the right of access for such purposes, the City shall notify the Grantor and request that Grantor remove the hazard or authorize the City to do so. In the event of a disagreement as to the existence of a or as to what method may be used to remove the hazard, the parties shall resolve the disagreement pursuant to the dispute resolution provisions set forth below.

4. In the event Grantor places any improvements within the Easement Area without first having obtained the written approval of the City Engineer, the Grantor shall cease all such activity and remove any and all improvements placed therein without the written agreement of the City Engineer. In the event Grantor fails to obtain prior approval, Grantor hereby authorizes the City to remove any and all improvements placed or constructed therein and hold the City, its officers, employees and agents harmless from damage caused to said improvements arising out of or related to their removal. Grantor further agrees to pay the City for any and all costs incurred by the City in removing the improvements. This right is in addition to any other right the City may have at law or in equity.

5. Prior to the City conducting any activity within the Easement Area, such as, but not limited to, maintenance and repair work, it shall notify the Grantor in advance and obtain the Grantor's written approval, which may contain conditions on hours and traffic control, and which written approval shall not be unreasonably withheld or delayed.

6. A. Subject to Section 6.B below, Grantor does release, indemnify and promise to defend and save harmless the City, its officers, employees and agents from and against any and all liability, loss, damage, expense, actions and claims, including costs and reasonable attorney's fees incurred by the City, its officers, employees and agents in defense thereof, asserting or arising directly or indirectly on account of or out of Grantor's use or activity within the Easement Area. Subject to Section 6.B below, the City does release, indemnify and promise to defend and save harmless the Grantor, its officers, employees, agents, successors, assigns and lessees of the property across which the Easement extends from and against any and all liability, loss, damage, expense, actions and claims, including costs and reasonable attorney's fees incurred by the Grantor, its officers, employees, agents, successors, assigns and lessees of the property across which the Easement extends in defense thereof, asserting or arising directly or indirectly on account of or out of the City's use or activity within the Easement Area. This paragraph does not purport to indemnify the City or the Grantor against liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the sole negligence of, respectively, the City or the Grantor, its officers, employees, agents successors, assigns and lessees of the property across which the Easement extends; provided, that if the claims or damages are caused by or result from the concurrent negligence of (a) the Grantor, its agents, successors, assigns or lessees, and (b) the City, its officers, employees or agents, the parties' respective responsibilities shall be allocated by their respective degrees of fault. The Grantor and the City specifically and expressly waives any immunity under Industrial Insurance, Title 51 RCW, and acknowledges that this waiver has been mutually negotiated by the parties.

B. The indemnification, defense, and hold harmless obligations under Section 6.A above are not applicable to any liability, loss, damage, expense, actions or claims arising from or relating to any release, discharge or placement of any Hazardous Substance. Grantor and City's obligations regarding Hazardous Substances are as set forth in that certain

unrecorded Hazardous Substance Indemnification Agreement entered into by and between the Port of Everett and the City on July 10, 2014. As used hereunder, the term "Hazardous Substance" shall mean (i) any substance subject to regulation under the Washington Hazardous Waste Management Act (chapter 70.105 RCW) as amended from time to time and regulations promulgated thereunder; (ii) any "hazardous substance" under the Washington Model Toxics Control Act (chapter 70.105D RCW) as amended from time to time and regulations promulgated thereunder; (iii) any "hazardous substance" or "hazardous waste" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 USC §§ 9602 et seq.) as amended from time to time and regulations promulgated thereunder; (iv) any asbestos; (v) polychlorinated biphenyls; (vi) underground storage tanks, whether empty, filled or partially filled with any substance; (vii) any solid waste or solid waste decomposition products (not part of or resulting from the intermodal transfer facility operations); (viii) any substance the presence of which is prohibited by any federal, state, county, municipal or other local governmental statutes, regulations, ordinances or resolutions; and (ix) other substances deemed hazardous, toxic, a pollutant, or contaminant, which by any federal, state, county, municipal or other local governmental statutes, regulations, ordinances or resolutions require special handling or notification in its collection, storage, treatment or disposal.

7. The Grantor also covenants to the City that Grantor is lawfully seized and possessed of the land aforesaid; has a good and lawful right and power to grant the Easement; that same is free and clear of monetary encumbrances, and that Grantor will forever warrant and defend the title to said Easement and the quiet possession thereof against the lawful claims and demands of all other persons whomsoever.

8. The rights and obligations of the Grantor and City shall inure to the benefit of and be binding upon their respective heirs, successors and assigns.


9. In the event that a dispute under this Agreement arises between the parties, both parties agree to work diligently and expeditiously to resolve that dispute. If a dispute arises, at the request of one party, both parties shall meet, within three (3) days to discuss the substance of the issue(s) in dispute. In the event that the parties are unsuccessful in resolving the dispute(s) at the initial meeting, within three (3) days thereafter, Grantor and the City's Director of Public Works, or his designee, shall meet to discuss the substance of the issue(s) in dispute. If the parties are unsuccessful in resolving the disputed issue(s) at this subsequent meeting, the parties agree to engage the services of a mediator who is mutually acceptable and participate in mediation within twenty (20) days of the subsequent meeting or as soon thereafter as the mediator may be available or at such later date as the parties may agree. In the event that mediation fails to resolve the issue(s) in dispute, each party shall be free to seek such other recourse as may be available.

[No further text.]

Executed as of the date hereinabove set forth.

GRANTOR

**Riverside Business Park Owners'
Association**

By: 
Name: Tiffany Began
Title: President

GRANTEE

CITY OF EVERETT

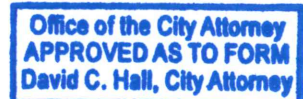
By: 
Cassie Franklin

Title: **Mayor**

Attest:


City Clerk

Approved as to form:



City Attorney

REPRESENTATIVE ACKNOWLEDGMENT

STATE OF WASHINGTON)
 :SS.
County of Snohomish)

I certify that I know or have satisfactory evidence that Tiffany Brown signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the President of **Riverside Business Park Owners' Association** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.



Dated: June 27, 2023

Signature of Notary Public: Melissa Kinnee

Notary (print name) Melissa Kinnee

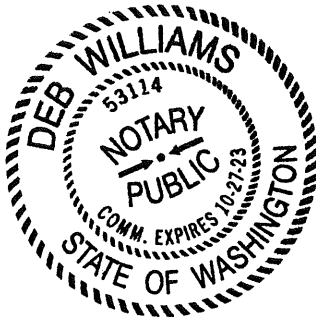
Residing at Kirkland, WA

My appointment expires: 12/19/23

REPRESENTATIVE ACKNOWLEDGMENT

STATE OF WASHINGTON)
 :SS.
County of Snohomish)

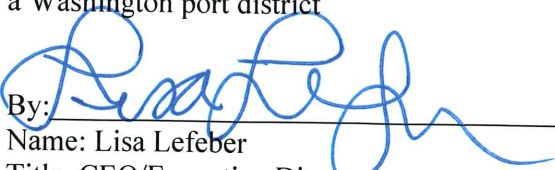
I certify that I know or have satisfactory evidence that **Cassie Franklin** signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the **Mayor of the City of Everett** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.



Dated: 9-11-2023
Signature of Notary Public: *Deb Williams*
Notary (print name) Deb Williams
Residing at Everett, Wa
My appointment expires: 10-27-23

For the limited purpose of acknowledging and agreeing that this Sanitary Sewer Easement Agreement is one of "Easements" defined in Recital H of the Hazardous Substance Indemnification Agreement entered into by and between the Port of Everett and the City of Everett on July 10, 2014.

Port of Everett,
a Washington port district

By: 
Name: Lisa Lefeber
Title: CEO/Executive Director

STATE OF WASHINGTON

COUNTY OF SNOHOMISH

This record was acknowledged before me on July 12, 2023, by Lisa Lefeber, as CEO/Executive Director of Port of Everett, a Washington port district.



Notary Public for the State of Washington
Print name: Dalton Cook
My commission expires: May 4, 2026



EXHIBIT "A"

**LEGAL DESCRIPTION OF
SANITARY SEWER EASEMENT AREA**

See attached.

EXHIBIT "B"

**DEPICTION OF
SANITARY SEWER EASEMENT AREA**

See attached.

CITY OF EVERETT
BILL OF SALE - SEWER

Project: Riverside Business Park

THE UNDERSIGNED hereby conveys and transfers to the CITY OF EVERETT (the "City") the following described property (the "Property"):

The Transferred Sewer Infrastructure, as that term is defined in the General Transfer Agreement dated June 10, 2014, between the City and the undersigned (the "GTA").

The undersigned represents to the City that the undersigned is the owner of the Property and has the right and authority to sell the same, and that the Property is free of all liens or encumbrances. The undersigned covenants and agrees to and with the City that the undersigned will, and does, hereby warrant and agree to defend the City's title to the Property against the claims of all third parties claiming to own the Property or claiming any interest therein or encumbrance thereon.

The undersigned warrants that all bills and taxes relating to the construction and installation of the Property have been paid in full and that there are no lawsuits pending involving the Property. Except as otherwise specifically provided in this bill of sale or in Section 5.2 of the GTA, the undersigned transfers and conveys the Property to the City without warranty, expressed or implied, and without recourse.

The undersigned assigns to the City all warranties by contractors or suppliers or others related to the construction and installation of the Property. If a warrantor later asserts that its warranty cannot be assigned to the City, then the undersigned will, at the request and cost of the City and in coordination with the City, take all reasonable steps to enforce the warranty on behalf of the City.

[No further text.]

Port of Everett,
a Washington port district

By: _____

Name: Lisa Lefeber

Title: CEO/Executive Director

STATE OF WASHINGTON

COUNTY OF SNOHOMISH

This record was acknowledged before me on July 12th, 2023, by Lisa Lefeber, as
CEO/Executive Director of Port of Everett, a Washington port district.

Notary Public for the State of Washington

Print name: Dalton Cook

My commission expires: May 4, 2026



Riverside Business Park Owners' Association,
a Washington nonprofit corporation

By: Tiffany Brown
Name: Tiffany Brown
Title: President

STATE OF WASHINGTON

COUNTY OF SNOHOMISH

This record was acknowledged before me on June 27, 2023, by
Tiffany Brown, as President of Riverside Business Park
Owners' Association, a Washington nonprofit corporation.



Melissa Kinnee
Notary Public for the State of Washington
Print name: Melissa Kinnee
My commission expires: 12/19/23