

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:
KING COUNTY
WASTEWATER TREATMENT DIVISION
MAILSTOP: KSC-NR-0503
201 SOUTH JACKSON STREET, SUITE 503
SEATTLE, WA 98104-3855

Document Title: Utility Easement
Grantor(s): The City of Seattle
Grantee: King County
Abbreviated Legal Description: Lots 9 to 17, Block 1
Joseph R. McLaughlin’s Water Front Addition to the City of Seattle
Additional Legal Description is on Page: EXHIBIT “A” & “B”
Assessor’s Tax Parcel Number(s): N/A

UTILITY EASEMENT

WHEREAS, **King County** is a political subdivision of the State of Washington and is authorized by Chapter 8.12 RCW, RCW 35.58.320, 35.58.200 and 36.56.010, K.C.C. 28.01.030 and 28.81.010 to acquire and condemn real property for public use for sewage treatment and water pollution abatement facilities; and

WHEREAS, **The City of Seattle** is the owner of certain real property more particularly described in **EXHIBIT “A”** which is attached hereto and incorporated herein by this reference (the “Property”)

WHEREAS, King County has determined that it must construct a sewer pipeline and appurtenances (the “Project”); and

WHEREAS, The City of Seattle has granted King County a Temporary Construction Easement in, on, under and through the Property for the purpose of staging and constructing permanent outfalls, pipelines and appurtenances within the area described on EXHIBIT B.

WHEREAS, it is necessary for King County to acquire a permanent easement granting King County and its successors and assigns the right to install, construct, own, operate, maintain, use, upgrade, and repair an effluent conveyance pipeline and air ventilation conduit pipe, together with all other necessary and related appurtenances (hereinafter sometimes referred to collectively, as the “Easement Improvements”) together with the right of ingress to and egress from the Property for the foregoing purposes for the Project;

1. NOW, THEREFORE, in consideration of the mutual covenants and agreement hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1.1 **Grant of Permanent Utility Easement.** The City of Seattle (“Grantor”), for and in consideration of Fifty Five Thousand and No/100 Dollars (\$55,000.00) and other valuable consideration in hand paid, grants to King County its successors and assigns (“Grantee”), the following: A permanent, non-exclusive easement, containing 4,364 square feet, more or less, in, on, under and through the Property for the installation, construction, ownership, operation, maintenance, use, inspection, repair, replacement, renovation, improvement, removal and enhancement of the Easement Improvements, in the location legally described in **EXHIBIT B** as the Permanent Easement Area (hereinafter the “Permanent Easement Area”) and depicted in **EXHIBIT C**, attached hereto and incorporated herein by this reference together with a right of access in, on and through the Property for ingress and egress to and from the Permanent Easement Area for personnel, vehicles and equipment as reasonably necessary or incidental to Grantee’s installation, construction, ownership, use, operation, maintenance, inspection, repair, replacement, renovation, improvement, removal or enhancement of the Easement Improvements.

1.2 The consideration for this Utility Easement has been paid by Grantee from the King County Water Quality Fund.

2. **Benefit of Easement.** This Utility Easement is for the benefit of all property interests now owned or hereafter acquired by Grantee which constitutes a portion of or is served the Project or by existing or future Easement Improvements and for all purposes necessary or incidental to the installation, construction, ownership, use, operation, maintenance, inspection, repair, replacement, renovation, improvement, removal and enhancement of the Easement Improvements, and the right of ingress to and egress from, on, to, under, across, and upon the Property as may be necessary to install, construct, use, operate, maintain, inspect, repair, replace, renovate, improve, remove or enhance the Easement Improvements.

3. **Grantee's Restoration of Property.** Grantee shall, upon completion of construction of any Easement Improvements described herein, remove any debris and restore the surface of any portion of the Property disturbed by Grantee’s construction to the condition in which it existed at the commencement of Grantee's construction. In addition, Grantee shall, if the Property is disturbed by Grantee’s maintenance, removal, repair or replacement of the Easement Improvements specified herein, restore the surface of the

Property to the condition in which it existed at the commencement of said maintenance, removal, repair or replacement.

4. **Grantor's Use of Property.** Grantor reserves the right to use the Property and/or to grant other easement, license or use rights to the Property for any purpose not inconsistent with the rights herein granted to Grantee so long as such use or use rights do not interfere with, obstruct or endanger the use, function, efficiency, maintenance, repair or replacement of any Easement Improvements now or hereafter constructed, installed, used, operated or maintained by Grantee in the Permanent Easement Area pursuant to this Utility Easement. Except as otherwise provided herein, and after the date of this Utility Easement, the construction, installation, or maintenance of any structures, whether temporary or permanent, shall be absolutely prohibited within the above described Permanent Easement Area and shall be deemed an unreasonable interference with the easement rights granted to Grantee herein unless specifically approved in writing by the Grantee. Prior to any activity by Grantor in the Permanent Easement Area that requires use of the subsurface of the Property and/or extends to within ten feet of any of Easement Improvements contained therein or which changes the compression loads on or to the lateral support for any Easement Improvements, Grantor shall notify Grantee in writing and shall provide Grantee with a copy of all plans and specifications for such proposed activity for review at least forty-five (45) days prior to the commencement of such activity. Grantor shall not commence such activity unless and until it has received Grantee's prior written consent that the Grantor's proposed construction, work or activity will not interfere with the Grantee's rights under this Utility Easement, which consent may not be unreasonably withheld, delayed or conditioned. Grantee's review and approval of Grantor's plans and specifications shall be strictly limited to the facilities and/or excavation shown on the plans and specifications submitted to Grantee and shall in no event constitute or be construed as a certification of the adequacy or sufficiency of Grantor's plans and specifications nor whether Grantor's construction, work or activity complies with other applicable laws, building codes and other governmental rules and regulations.

5. **Indemnity.** Grantee agrees to defend, indemnify and hold harmless Grantor, its successors and assigns, from all claims, actions, costs, damages or expense of any nature whatsoever (including reasonable attorneys' fees and costs) for injuries, sickness or death of persons, or any damage to property, caused by the acts or omissions of Grantee, its assigns, agents, contractors or employees, in its use of or occupancy of the Permanent Easement Area, or breach or violation of this Utility Easement. Provided, however, that this defense and indemnification obligation does not include such claims, actions, costs, damages or expenses which may be caused by the sole negligence or willful misconduct of the Grantor, its successors, assigns, agents or employees and provided further that if the claims, actions, costs, damages or expenses are caused by or result from the concurrent negligence of (a) the Grantor, its successors or assigns and/or their agents or employees and (b) the Grantee, its agents or employees, or involves those actions covered by RCW 4.24.115, then this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Grantee, its agents or employees. For purposes of this

indemnity only, Grantee specifically and expressly waives any immunity that it may be granted under the Washington State Industrial Insurance Act, Title 51 RCW.

6. **Notices.** Any notices required or permitted under this Utility Easement shall be deemed to have been duly given if personally delivered, sent by nationally recognized overnight delivery service, or if mailed or deposited in the United States mail and sent registered or certified mail, postage prepaid to the address listed below or to such other address as either party may from time to time designate in writing and deliver in a like manner. Notices may also be given by facsimile transmission (provided the fax machine has printed a confirmation of receipt). All notices that are mailed shall be deemed received three business days after mailing. All other notices shall be deemed complete upon receipt or refusal to accept delivery. Notices shall be sent to the following addresses:

To Grantor:

Seattle City Light
Real Estate Services
SMT 3338
P.O. Box 34023
Seattle, WA 98124-4023
Email: john.bresnahan@seattle.gov

To Grantee:

King County
Wastewater Treatment Division
Supervisor, Regulatory Permitting
and Property Acquisition
Mailstop: KSC-NR-0505
201 South Jackson Street, Suite 505
Seattle, WA 98104-3855
Email: alton.gaskill@kingcounty.gov

7. **Miscellaneous Provisions**

(a) **Representations.** Grantor represents that it is the lawful owner of the Property and has the legal authority to grant and convey this Utility Easement to Grantee.

(b) **Binding Effect.** This Utility Easement is appurtenant to and shall run with all real property and real property interests and easements now owned or hereafter acquired by Grantee or served by the Easement Improvements and shall inure to the benefit of Grantee, its successors and assigns and shall be binding upon the Property and Grantor, and its successors and assigns. Grantee shall have the right to assign its rights under this Utility Easement, in whole or in part, without any additional fee and without the approval or consent of Grantor provided that Grantee's assigns shall be bound to all of the terms and conditions of this Utility Easement.

(c) **Construction.** All of the recitals set forth above are incorporated into this Utility Easement as though fully set forth herein. The headings contained in this Utility Easement are for convenience of reference purposes only and shall not in any way affect the meaning or interpretation hereof, nor serve as evidence of the intention of the parties hereto. Whenever the context hereof shall so require the singular shall include the plural.

(d) **Entire Agreement.** This Utility Easement sets forth the entire agreement of the parties as to the subject matter hereof and supersedes all prior discussions and

understandings between them. This Utility Easement may not be modified, except by an instrument in writing signed by a duly authorized officer or representative of each party hereto.

(e) **Waiver.** No waiver of any right under this Utility Easement shall be effective unless contained in a writing signed by a duly authorized officer or representative of the party sought to be charged with the waiver and no waiver of any right arising from any breach or failure to perform shall be deemed to be a waiver of any future right or any other right arising under this Utility Easement.

(f) **Governing Law.** This Utility Easement shall be governed by and construed and enforced in accordance with the laws of the State of Washington.

Dated this ____ day of _____, 2016.

[Signature of Grantor]

By: _____

Its: _____

[Signature of Grantee]

By: _____

Its: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this day personally appeared before me _____ ,
to me known to be the _____ of _____ ,
the _____ that executed the within and foregoing instrument, and acknowledged
the said instrument to be the free and voluntary act and deed of the said _____ ,
for the uses and purposes therein mentioned, and on oath stated that they were authorized
to execute the said instrument.

Dated: _____.



Notary Public
Print Name _____
My commission expires _____

(Use this space for notarial stamp/seal)