

**CITY OF SEATTLE**  
**ORDINANCE** 126907  
**COUNCIL BILL** 120667

AN ORDINANCE relating to Seattle Parks and Recreation; authorizing the Second Amendment to the Easement Agreement; authorizing acceptance of a recording of the Second Amendment to the Easement Agreement; and ratifying and confirming certain prior acts.

WHEREAS, the Historic Seattle Preservation and Development Authority (HSPDA) is the owner of the residential structure commonly known as the Egan House (defined in these recitals) and located at 1500 Lakeview Boulevard, Seattle, Washington, and the Grantee of the House Easement (defined in these recitals) concerning the easement on which the Egan House is located and by which the Egan House is accessed and served with utilities. The City of Seattle (“City”) is the owner of the land encumbered by the Egan House and House Easement, which land is legally described within Attachment 1 to this ordinance, in Exhibit A (“Land”); and

WHEREAS, Gary M. Ernsdorff (“Ernsdorff”) conveyed the Egan House and Initial House Easement (defined below) to HSPDA through the Statutory Warranty Deed dated February 26, 1998 and recorded February 27, 1998 in the real property records of King County under No. 9802272144 (“HSPDA Deed”). Concurrently with such conveyance, Ernsdorff conveyed the Land (exclusive of the Egan House and subject to the Initial House Easement) to the City for open space, park and recreation purposes through the Statutory Warranty Deed dated February 26, 1998 and recorded February 27, 1998 in the real property records of King County under No. 9802272145 (“City Deed”). As used in these recitals, “Egan House” means the residential structure (including attached decks, piers and footings) located on the Land and “Initial House Easement” means an easement

1 for ingress, egress and utilities to and from the Egan House, together with an easement  
2 for maintenance and use of the Egan House within the footprint of the Egan House  
3 (including decks), each as more particularly described in the HSPDA Deed and City  
4 Deed. Under the HSPDA Deed, the Initial House Easement was scheduled to expire upon  
5 the earlier of material damage to or destruction of the Egan House, removal of the Egan  
6 House, or 50 years from the date of the deed; and

7 WHEREAS, the City and HSPDA subsequently amended the Initial House Easement under the  
8 Agreement dated May 15, 2002 and recorded May 22, 2002 in the real property records  
9 of King County under No. 20020522000346 (“First Amendment”). Under the First  
10 Amendment the City and HSPDA, among other modifications, expanded the permitted  
11 use under the House Easement to include repair, preservation, and restoration of the Egan  
12 House, and added an obligation for the holder of the House Easement to repair and  
13 restore the Egan House following damage by any casualty, as more particularly described  
14 in the First Amendment. As used in these recitals, “Amended House Easement” means  
15 the Initial House Easement as modified by the First Amendment; and

16 WHEREAS, the Egan House is a one-bedroom, single family residence. It was designed by  
17 notable Seattle architect Robert Reichert and built by Sanford Moglebust for Admiral  
18 William Egan in 1958. The house is an outstanding example of modernist Northwest  
19 residential architecture. HSPDA has invested substantial capital in preserving the house  
20 since acquiring it in 1998, including replacing the roof, structural elements, and building  
21 systems. The house is located within the St. Marks Greenbelt, which offers open space,  
22 park, and recreation opportunities within the city; and

1 WHEREAS, in 2009 the City of Seattle Landmarks Preservation Board (“Landmarks Board”)  
2 approved the designation of the Egan House as a landmark under Seattle Municipal Code  
3 Chapter 25.12. After the designation, the Landmarks Board and HSPDA agreed upon  
4 certain controls and incentives on the features and characteristics of the Egan House that  
5 were designated by the Landmarks Board for preservation, and the City approved such  
6 controls and incentives under Ordinance 123295 filed on May 14, 2010 and recorded on  
7 May 25, 2010 in the real property records of King County under No. 20100525001148;  
8 and

9 WHEREAS, the City and Grantee now desire to modify the Amended House Easement to extend  
10 the term and make other certain changes as more particularly described below and in the  
11 Second Amendment; NOW, THEREFORE,

12 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

13 Section 1. The Superintendent of Parks and Recreation or designee is authorized, on  
14 behalf of The City of Seattle, to enter into the Second Amendment to Easement Agreement  
15 substantially in the form of Attachment 1 to this ordinance, incorporated by reference (Second  
16 Amendment), concerning the real property described within Attachment 1, in Exhibit A.

17 Section 2. The Superintendent or designee is authorized to execute such documents as the  
18 Superintendent deems necessary or desirable to effectuate the Second Amendment, including,  
19 without limitation, such consents, approvals, extensions of time, and minor amendments of the  
20 agreement(s) as the Superintendent shall deem appropriate to carry out the intent of this  
21 ordinance.

22 Section 3. Any act consistent with the authority of this ordinance taken prior to its  
23 effective date is ratified and confirmed.

1 Section 4. This ordinance shall take effect and be in force 30 days after its approval by  
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
3 shall take effect as provided by Municipal Code Section 1.04.020.

4 Passed by the City Council the 26th day of September, 2023,  
5 and signed by me in open session in authentication of its passage this 26th day of  
6 September, 2023.

7   
\_\_\_\_\_


8 President \_\_\_\_\_ of the City Council

9  Approved /  returned unsigned /  vetoed this 2nd day of October, 2023.

10   
\_\_\_\_\_

11 Bruce A. Harrell, Mayor

12 Filed by me this 2nd day of October, 2023.

13   
\_\_\_\_\_

14 Scheereen Dedman, City Clerk

15 (Seal)

16  
17  
18  
19  
20

Attachments:  
Attachment 1 – Second Amendment to Easement Agreement

After Recording, Return To:

Seattle Parks and Recreation  
100 Dexter Ave. N.  
Seattle, WA 98109  
Attention: Superintendent

## **SECOND AMENDMENT TO EASEMENT AGREEMENT**

**Grantor:** City of Seattle

**Grantee:** Historic Seattle Preservation and Development Authority

**Abbreviated Legal Description:** BEG 285.56 FT E OF S QUARTER COR OF STR 20-25 N-04 E; TH N 80 FT; TH W TO MOST ELY LN BOYLSTON AVE E (FORMERLY KNOWN AS LAKE VIEW BLVD, LAKEVIEW AVE, OR BOYLSTON AVE N IN OFFICIAL RECORDS, INCLUDING, UNDER CITY OF SEATTLE ORDINANCE NOS. 11404, 55811 AND 56727); TH SWLY ON SD E LN TO S LN OF SD SEC 20; TH E TO PT OF BEG

**Assessor's Property Tax Parcel Number:** 202504-9049

**Reference Nos. of Related Documents:** 9802272144; 9802272145; and 200205222000346

## SECOND AMENDMENT TO EASEMENT AGREEMENT

This Second Amendment to Easement Agreement (“Second Amendment”), dated as of the Effective Date (defined on the signature page), is made by and between the City of Seattle, a Washington municipal corporation (“City”), and Historic Seattle Preservation and Development Authority, a Washington public development authority (“Grantee”).

### RECITALS

A. The City is the owner of the real property located at 1500 Lakeview Boulevard East, Seattle, Washington and legally described on the attached Exhibit A (“Land”).

B. Grantee is the owner of the residential structure located on the Land, which structure is commonly known as the Egan House, and is the holder of the House Easement (defined below) concerning the easement area on the Land on which the Egan House is located and by which the Egan House is accessed and served with utilities.

C. Gary M. Ernsdorff (“Ernsdorff”) conveyed the Egan House and Initial House Easement (defined below) to Grantee pursuant to the Statutory Warranty Deed dated February 26, 1998 and recorded February 27, 1998 in the real property records of King County under No. 9802272144 (“HSPDA Deed”). Concurrently with such conveyance, Ernsdorff conveyed the Land to the City for open space, park and recreation purposes pursuant to the Statutory Warranty Deed dated February 26, 1998 and recorded February 27, 1998 in the real property records of King County under No. 9802272145 (“City Deed”). Ernsdorff conveyed the Land to the City exclusive of the Egan House and subject to the Initial House Easement, as described in the City Deed. As used in this Second Amendment, “Egan House” means the residential structure (including attached decks, piers and footings) located on the Land and “Initial House Easement” means an easement for ingress, egress and utilities to and from the Egan House, together with an easement for maintenance and use of the Egan House within the footprint of the Egan House (including decks), each as more particularly described in the HSPDA Deed and City Deed. Under the HSPDA Deed, the Initial House Easement is scheduled to expire upon the earlier of (i) material damage to or destruction of the Egan House; (ii) removal of the Egan House; or (iii) February 25, 2048 (i.e., 50 years from the date of the HSPDA Deed).

D. The City and Grantee subsequently amended the Initial House Easement pursuant to the Agreement dated May 15, 2002 and recorded May 22, 2002 in the real property records of King County under No. 20020522000346 (“First Amendment”). Under the First Amendment the City and Grantee, among other modifications, expanded the permitted use under the House Easement to include repair, preservation, and restoration of the Egan House, and added an obligation for the holder of the House Easement to repair and restore the Egan House following damage by any casualty, as more particularly described in the First Amendment. As used herein, “Amended House Easement” means the Initial House Easement as modified by the First Amendment and “House Easement” means the Amended House Easement as modified by this Second Amendment.

E. The City and Grantee now desire to modify the Amended House Easement to extend the term and make other certain changes as more particularly described below.

## AGREEMENT

In furtherance of the Recitals set forth above, which are incorporated herein by reference, and in consideration of the mutual promises and covenants set forth below, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties acknowledge and agree to the following:

**1. Term.** The term of the House Easement is hereby extended for a period of approximately thirty-five (35) years (“First Extended Term”), commencing on February 26, 2048 and expiring on February 28, 2083.

**2. Right to Extend.** Grantee shall have the right to extend the term of the House Easement beyond the First Extended Term, and otherwise on the same terms and conditions, for two (2) additional, successive periods of thirty-five (35) years each (each, an “Extended Term”). Grantee may exercise each right to an Extended Term under this paragraph by providing prior written notice thereof to the City at least six (6) months prior the expiration of the First Extended Term or then-current Extended Term, as applicable.

**3. Early Termination.**

**a) Removal.** In accordance with the HSPDA Deed, the House Easement shall terminate early upon the permanent removal and relocation of the Egan House from the Land.

**b) Damage or Destruction.** Notwithstanding anything to the contrary in the Amended House Easement, the House Easement shall not terminate early in the event of material damage to or destruction of the Egan House except as provided in Section 3 of the First Amendment as modified by this Second Amendment. As of the Effective Date, Section 3 of the First Amendment is hereby deleted and replaced with the following:

Historic Seattle, as owner of the residential structure, shall promptly repair and restore the residential structure following damage or destruction by any casualty, subject to the approval of the mortgagee (if any). In the event the residential structure is not repaired and restored, as required under the prior sentence, within two (2) years after the date of the casualty, then Historic Seattle shall convey the structure to the City of Seattle and the easement shall terminate as of the date of conveyance. Nothing in this paragraph shall be deemed to prohibit Historic Seattle from relocating the residential structure, or from conveying the residential structure to a third party, following a casualty.

**4. Financial Encumbrances.** As of the Effective Date, Section 4 of the First Amendment is hereby deleted and replaced with the following:

Historic Seattle, as owner of the residential structure, shall be responsible for removing all financial encumbrances on the residential structure and on the easement within 30 days after the expiration or earlier termination of the easement.

**5. Taxes.** Grantee shall timely pay all taxes applicable to the House Easement, including without limitation leasehold excise taxes. Grantee shall indemnify and hold harmless the City for all costs and liabilities incurred by the City in connection with a violation of this paragraph by Grantee.

**6. Maintenance and Repairs.** The City hereby confirms that Grantee’s right to maintain, repair, preserve, restore, and use the Egan House, as set forth in the Amended House Easement, includes without limitation the right to temporarily erect a scaffold, and locate other equipment, around the perimeter of the Egan House in connection with any maintenance, repair, restoration, and/or preservation work on the Egan House.

**7. City Regulations.** Subject to the terms and conditions of the House Easement, the Grantee shall comply with all applicable City of Seattle – Seattle Parks and Recreation regulations governing the use of open space.

**8. Historic Preservation Easement.** The City agrees that Historic Seattle Preservation and Development Authority may, in connection with a future sale of the Egan House, reserve for itself or receive from a prospective buyer a historic preservation easement concerning the Egan House together with a non-exclusive access easement for purposes of exercising its rights thereunder (collectively, “Historic Preservation Easement”). Furthermore, the City agrees that Historic Seattle Preservation and Development Authority may, to the extent permitted under the Historic Preservation Easement, install and maintain a plaque within the easement area under the House Easement for purposes of giving notice of the significance of the Egan House and the existence of the Historic Preservation Easement. The plaque shall not exceed 24 inches by 24 inches in size and shall otherwise be designed, located, and installed in compliance with applicable rules, regulations, codes, and laws.

**9. Legal Description of Land.** The parties acknowledge that the legal description of the Land, as set forth in Exhibit A, has been updated under this Second Amendment to account for a past condemnation of a portion of the Land by the City for public road purposes.

**10. Notices.** All notices desired or required to be given in connection with or pursuant to the House Easement shall be in writing and sent by certified or registered mail, with postage and return receipt requested, or by nationally recognized overnight courier such as UPS or FedEx, addressed to the other party. The date of delivery shall be the date upon which delivery is actually made by one of the methods described above (or attempted if said delivery is refused or rejected). Notices to the parties shall be addressed as follows:

City: Seattle Parks and Recreation  
100 Dexter Ave. N.  
Seattle, WA 98109  
Attention: Superintendent

Grantee: Historic Seattle Preservation and Development Authority  
Dearborn House  
1117 Minor Ave.  
Seattle, WA 98101  
Attention: Executive Director

From time to time a party may designate a new address for the purpose of receiving notices hereunder by giving notice of its new address to the other party in the manner provided above.

**11. Binding Effect.** The House Easement runs with and burdens the Land, is binding upon the successors and assigns of the City and Grantee, and shall not be extinguished by nonuse or abandonment or transfer of any interest in the Land or Egan House. The easements granted under the House Easement are easements in gross and shall inure to the benefit of the owner of the Egan House for the term of the House Easement.



**12. Applicable Law.** The House Easement shall be governed by, and construed in accordance with, the laws of the State of Washington without regard to its conflicts of laws principles. The venue for any dispute arising in connection with the House Easement will be in the state courts of King County, Washington.

**13. Severability.** If any provision of the House Easement becomes illegal, null, or void for any reason, or is held by any court of competent jurisdiction to be so, the remaining provisions will remain in full force and effect.

**14. Amendments.** The House Easement may be modified or amended only by written amendment entered into by the parties.

**15. Entire Agreement.** This Second Amendment and the Amended House Easement constitutes the entire agreement between the City and Grantee with respect to the subject matter of this Second Amendment.

**16. Authority.** The City and Grantee each represents and warrants to the other that the party signing below on its behalf has the full power, capacity, authority and legal right to execute and deliver this Second Amendment and to fully bind it to the terms hereof.

**17. Counterparts.** This instrument may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

*[SIGNATURES APPEAR ON THE FOLLOWING PAGE]*

IN WITNESS WHEREOF, THE CITY AND GRANTEE HAVE EXECUTED THIS SECOND AMENDMENT TO BE EFFECTIVE ON THE LATER OF THE DATES SET FORTH BELOW (“EFFECTIVE DATE”).

**GRANTOR:**

City of Seattle,  
a Washington municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF WASHINGTON )

COUNTY OF KING )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of the City of Seattle, a Washington municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2023.



\_\_\_\_\_  
Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

**GRANTEE:**

Historic Seattle Preservation and Public Development Authority,  
a Washington public development authority

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF WASHINGTON    )

COUNTY OF KING         )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of Historic Seattle Preservation and Development Authority, a Washington public development authority, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2023.



\_\_\_\_\_  
Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

EXHIBIT A

LEGAL DESCRIPTION

BEGINNING 285.56 FEET EAST OF THE SOUTH QUARTER CORNER OF SECTION 20, TOWNSHIP 25 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON; THENCE NORTH 80 FEET; THENCE WEST TO THE MOST EASTERLY LINE OF BOYLSTON AVENUE EAST (FORMERLY KNOWN AS LAKE VIEW BOULEVARD, LAKEVIEW AVENUE, OR BOYLSTON AVENUE NORTH IN OFFICIAL RECORDS, INCLUDING, UNDER CITY OF SEATTLE ORDINANCE NOS. 11404, 55811 AND 56727); THENCE SOUTHWESTERLY ON SAID EAST LINE TO SOUTH LINE OF SAID SECTION 20; THENCE EAST TO POINT OF BEGINNING.

SITUATE IN THE CITY OF SEATTLE, COUNTY OF KING, STATE OF WASHINGTON.