

After Recording Return To:

City of Camas
616 NE 4th Avenue
Camas, WA 98607

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

Document Title(s) (or transactions contained therein):

Septic Tank Easement and Use Agreement

Reference Number(s) of Documents assigned or released: N/A

Grantor(s): Parker Village, LLC

Grantee(s): City of Camas

Legal description (abbreviated: i.e. lot, block, plat or section, township, range):



Additional legal is on Exhibits A and B to document.

Assessor's Property Tax Parcel/Account Number:

THIS SEPTIC TANK EASEMENT AND USE AGREEMENT (“**Agreement**”) is made effective as of ____ day of November, 2015, between PARKER VILLAGE, LLC, a Washington limited liability company, herein called “**Grantor**,” and the CITY OF CAMAS, a municipal corporation of the State of Washington, herein called “**Grantee**.”

Grantor owns the property located at Lot 61, Parker Village Subdivision, Clark County, Washington, which is more particularly described on attached **Exhibit A** (the “**Grantor’s Property**”).

Grantor is developing, operating and managing a residential subdivision (the “**Subdivision**”) on property adjacent to Grantor's Property and, as a condition of Grantee's approval of the Subdivision, Grantor has agreed to grant certain easements over and across Grantor’s Property for the purposes described in this Agreement.

NOW THEREFORE, for valuable consideration, receipt of which is acknowledged, Grantor hereby grants to Grantee a perpetual, nonexclusive Access and Sanitary Sewer Easement, all as more particularly described on attached **Exhibit B** and as approximately illustrated on the map attached as **Exhibit C** (the “**Easement**”).

The Easement granted pursuant to this Agreement are granted upon, and are subject to, the following terms and conditions:

1. **Easement Purposes.** The Easement granted pursuant to this Agreement shall be for the purposes of excavation, inspection, maintenance, operation, repair and replacement of a below-ground 50,000 gallon septic tank measuring 12’ diameter by 68.7’ long within the Easement (the “**Septic Tank**”).

2. **Septic Tank.** Any work to be performed by Grantee or its Permittees with respect to the excavation, inspection, maintenance, operation, repair and replacement of the Septic Tank within the Easement shall be diligently pursued to completion once commenced, conducted in a good and workmanlike manner consistent with the prevailing standards for such work, and completed lien-free and in compliance with all applicable laws, all at Grantees’ sole cost and expense. For the purposes of this Agreement, maintenance is defined as the work normally necessary to preserve and keep the septic system as nearly as possible in their present condition or as hereafter improved. Grantee shall expeditiously repair any damage to the surface of the Easement and the remainder of the Grantor’s Property resulting from such work or related to the presence or use of the Septic Tank and shall return the surface of the Easement to its original grade. Grantee will provide for adequate erosion control and shall return all landscaping, shrubs, and paving, if any, to the condition they were in immediately prior to commencement of any work under this Agreement.

3. **Third Parties.** Grantor may grant to third parties, upon such terms as it chooses, any or all of the rights reserved by it herein; provided, that use by such party shall be subject to

the terms and conditions of this Agreement and shall not unreasonably interfere with the rights granted to the Grantee hereunder.

4. Improvements. Unless the parties hereto agree in writing to share the cost of improvements in advance of such improvements being made, said improvements shall be solely for the account of the improver. Grantee shall not make any improvements without Grantor's prior written consent. Should Grantee desire to construct any improvements to the Grantor's Property, Grantee shall present a written proposal to Grantor specifying the location, size and specifications of the improvements. Grantor shall specify either its written approval, disapproval, or required modifications within thirty (30) days of Grantee's request. Such approval shall not be unreasonably withheld or conditioned by Grantor. Any approved improvements necessary for Grantee's activities under this Agreement shall be Grantee's sole responsibility and undertaken at Grantee's sole cost and expense. Any construction or improvements undertaken by Grantee shall follow all applicable laws, rules, and regulations and Best Management Practices of the State of Washington.

5. Exercise of Rights. Grantee may permit its agents, contractors, licensees, vendors, lessees, purchasers of rock or other valuable materials, and their agents, herein individually referred to as "**Permittee**" and collectively referred to as "**Permittees**," to exercise the rights granted to it herein provided such use by any Permittee is directly related to the limited purposes for which the Easement is granted.

6. Indemnification. To the full extent not prohibited by applicable law, Grantee agrees to defend, indemnify and save harmless Grantor from and against all causes of action, litigation, cost, loss, liability, damage and expense (including attorneys' fees) for injury or death to persons, whomsoever, and damage to or loss of property, to whomsoever belonging, arising out of or in any way connected with the exercise by Grantee or any of its Permittees of the rights granted herein, including but not limited to the presence or use of the Septic Tank by Grantee and its Permittees, except to the extent such causes of actions, litigation, cost, loss, liability, damage and expense results from the negligence of Grantor. Grantee shall be responsible to repair, restore, and reimburse Grantor for any damage or loss to Grantor's real or personal property arising out of or in any way connected with Grantee's exercise of its rights and performance of their obligations under this Agreement or from any damage or loss arising out of breakage or malfunction of the Septic Tank.

GRANTEE ACKNOWLEDGES THAT THE FOREGOING PROVISIONS OF THIS REQUIRE GRANTEE TO INDEMNIFY GRANTOR AGAINST CLAIMS MADE BY EMPLOYEES OF GRANTEE. GRANTEE EXPRESSLY WAIVES ANY AND ALL IMMUNITIES WHICH GRANTEE MAY HAVE UNDER AND PURSUANT TO THE PROVISIONS OF RCW TITLE 51 AS THE SAME MAY BE HEREAFTER AMENDED. GRANTEE ACKNOWLEDGES THAT THE WAIVER OF SUCH IMMUNITY(IES) WAS SEPARATELY NEGOTIATED AND MUTUALLY AGREED UPON BETWEEN GRANTOR AND GRANTEE.

7. **Insurance.** Grantee's participation in the self-insured governmental risk pool Washington Cities Insurance Authority (WCIA) shall satisfy insurance requirements relating to the duties and responsibilities of the Grantee as set forth herein. This self-insurance is accepted by Grantee as a substitute for insurance coverages that would otherwise be required under this Agreement.

8. **Compliance with Laws and Regulations and Safety Rules.** Grantee shall comply with all applicable Federal, State and local laws, regulations and ordinances, including but not limited to those governing the excavation, inspection, maintenance, operation, repair and replacement of the Septic Tank. It is understood that the Grantor's Property is situated near the Subdivision owned or managed by Grantor and its affiliates and, as a result, the Easement granted herein are subject to any restrictions or limitations imposed by applicable covenants or rules that Grantor establishes for the Subdivision. In exercising any rights under this Agreement, Grantee and any Permittee shall comply with all of the covenants relating to the Subdivision and Grantee shall obtain, comply with and be solely responsible for, at its own expense, any permits necessary to operate and maintain the Septic Tank.

9. **Hazardous Substances.** Grantee will comply with all applicable law regarding the use, storage, and handling of Hazardous Substances. In addition, Grantee must: (a) not dispose or discard any dangerous, hazardous, or regulated products, materials or substances including petroleum products, anti-freeze, oil filters, grease tubes, and similar items on Grantor's Property; (b) regularly inspect any vehicles and equipment used by Grantee for hydraulic and fuel leaks, and ensure that such vehicles and equipment are repaired and properly maintained before use on Grantor's Property; (c) immediately cleanup and properly dispose of any and all leaks, spills, and overfills of any material or substance, including any contaminated soil; and (d) immediately notify Grantor of any event which is required to be reported under environmental laws. As used in this Agreement, the term "**Hazardous Substance**" means any fuels, oils, pollutants, contaminants, chemicals or hazardous, toxic, or dangerous wastes, substances, chemicals or materials regulated or controlled pursuant to any applicable law now or at any time hereafter in effect.

10. **Successors and Assigns; Termination.** The rights and obligations herein shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto and shall be appurtenant to the Property for so long as Grantee continues to operate Grantee's Facility on the Property.

11. **Prior Rights.** The Easement granted pursuant to this Agreement and all rights hereunder are subject to all liens, easements, servitudes, rights of way, oil, gas, and mineral leases, and all other grants or reservations either of record or that a complete survey and inspection of the Easement and related areas of Grantor's Property would reveal.

12. **Condition of Grantor's Property As-Is.** Grantee accepts the Easement and any other portion of Grantor's Property related to the Easement strictly AS IS, with all defects, apparent or latent, without any representation or warranty by Grantor or any representative of

Grantor, expressed or implied. Grantees hereby assume all risk of its use of the Easement and the exercise of its rights under this Agreement.

13. Liens. Grantee shall promptly pay when due all charges and expenses for all materials, labor and supplies used by Grantee in connection with its maintenance, repair and reconstruction of the Septic Tank, and will keep Grantor's Property free from liens therefor.

14. Attorneys Fees. If suit or action is instituted to interpret or enforce the terms of this Agreement or to rescind this Agreement, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys' fees at trial, on any appeal, on any petition for review, and in any other proceeding, including any bankruptcy case (including any contested matter or adversary proceeding therein and matters peculiar to bankruptcy) or arbitration proceeding, in addition to all other sums provided by law.

15. Notices. Notices given under this Agreement shall be in writing and delivered by certified or registered U.S. Mail, postage paid, return receipt requested, by United States Express Mail or other established express delivery service (such as Federal Express or UPS), postage or delivery charge prepaid; by confirmed facsimile transmission or other telecommunication device capable of transmitting or creating a written record; or personally, at the respective address set forth below or such other address as the party may designate by written notice to the other. Such notices shall be effective upon receipt, or, if delivery is refused by the addressee party, upon refusal of such delivery. Until a party designates another address for notice by notice given pursuant to this section, any notice to Grantor shall be made to Parker Village, LLC, Attn: Patrick Ginn, 800 NE Tenney Road, #110-348, Vancouver, WA 98685, and any notice to Grantees shall be made to the City of Camas, Attention: Public Works Director, 616 NE 4th Avenue, Camas, Washington 98607.

16. Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Any and all suits and proceedings to enforce provision of this Agreement shall be instituted and maintained in the Superior Court of the State of Washington located in Clark County, Washington.

17. Counterparts. This Agreement may be executed in two or more counterparts and each counterpart shall be deemed to be an original, but all of which together shall constitute one and the same instrument upon delivery of one such counterpart by each party to this Agreement.

Signatures on following page(s)

EXHIBIT A

Description of Grantor's Property

A tract of land located in a portion of the southwest quarter of the southwest quarter of Section 4, Township 1 North, Range 3 East, Willamette Meridian, Clark County, Washington, more particularly described as follows:

Beginning at the southwest corner of said Section 4;

Thence South 88°29'00" East, along the south line of said section 4, for a distance of 34.32 feet

Thence North 01°21'14" East, for a distance of 555.00 feet;

Thence South 88°29'00" East, for a distance of 262.01 feet;

Thence South 01°31'00" West, for a distance of 26.00 feet to the TRUE POINT OF BEGINNING;

Thence South 88°29'00" East, for a distance of 196.40 feet;

Thence along the arc of a 126.00 foot radius curve to the left, for an arc distance of 64.96 feet, through a central angle of 29°32'29", the radius of which bears North 01°31'00" East, the long chord of which bears North 76°44'46" East, for a chord distance of 64.25 feet;

Thence along the arc of a 74.00 foot radius reverse curve to the right, for an arc distance of 29.97 feet, through a central angle of 23°12'30", the radius of which bears South 28°01'29" East, the long chord of which bears North 73°34'46" East, for a chord distance of 29.77 feet;
Thence along the arc of a curve 20.00 foot radius compound curve to the right, for an arc distance of 33.62 feet, through a central angle of 96°18'21", the radius of which bears South 04°48'58" East, the long chord of which bears South 46°39'48" East, for a chord distance of 29.80 feet;

Thence South 01°29'23" West, for a distance of 187.13 feet;

Thence North 88°30'37" West, for a distance of 97.47 feet;

Thence along the arc of a 74.00 foot radius non-tangent curve to the left, for an arc distance of 82.59 feet, through a central angle of 63°56'46", the radius of which bears South 65°27'47" West, the long chord of which bears North 56°30'35" West, for a chord distance of 78.37 feet;

Thence North 88°28'58" West, for a distance of 139.19 feet;

Thence North 01°31'00" East, for a distance of 22.00 feet;

Thence North 88°29'00" West, for a distance of 6.00 feet;

Thence North 01°31'00" East, for a distance of 118.00 feet to the TRUE POINT OF BEGINNING.

Containing 1.13 acres, more or less.

Together with and subject to an easement for the installation, construction, renewing, operation and maintenance of a Sanitary sewer system and its' related appurtenances, over, under and across a forty foot wide strip of land, being 20 feet on each side of the following described centerline;

Beginning at the Northwest corner of the above described Lot 61;

Thence South 88°29'00" East, for a distance of 26.99 feet to the TRUE POINT OF BEGINNING of said centerline description;

Thence South 01°31'00" West, for a distance of 140.00 feet to the terminus of said centerline description, the sidelines of which shall be lengthened or shortened to intersect the north and south lines of said Lot 61.

EXHIBIT B

Description of Easement

“ACCESS AND SANITARY SEWER EASEMENT”

An easement located in a portion of the southwest quarter of the southwest quarter of Section 4, Township 1 North, Range 3 East, Willamette Meridian, Clark County, Washington, for the installation, construction, renewing, operation and maintenance of a Sanitary sewer system and its' related appurtenances, over, under and across a fort foot wide strip of land, being 20 feet on each side of the following described centerline;

Beginning at the southwest corner of said Section 4;

Thence South 88°29'00" East, along the south line of said section 4, for a distance of 34.32 feet

Thence North 01°21'14" East, for a distance of 555.00 feet;

Thence South 88°29'00" East, for a distance of 262.01 feet;

Thence South 01°31'00" West, for a distance of 26.00 feet;

Thence South 88°29'00" East, for a distance of 26.99 feet to the TRUE POINT OF BEGINNING of said centerline description;

Thence South 01°31'00" West, for a distance of 140.00 feet to the terminus of said centerline description.

EXHIBIT C

Map of Easement

