RESOLUTION NO. 19-0440


WHEREAS, the City has delegated its authority to inspect sanitary sewer construction in the Edgewood Heights Apartment Project to Lakehaven Water and Sewer District; and

WHEREAS, according to Lakehaven Water and Sewer District, the developer of the Edgewood Heights Apartment Project has constructed the sanitary sewer in accordance with the approved plans; and

WHEREAS, the developer has requested final inspection of the sanitary sewer installation, and Lakehaven must determine that the work is substantially complete before the City can allow final building inspections and occupancy of the buildings; and

WHEREAS, one of the steps in the determination that the work is substantially complete is the City’s acceptance and approval of the easement for the sanitary sewer facilities; and

WHEREAS, the property owner has submitted the attached easement for acceptance and approval by the City Council; and

WHEREAS, the Council considered this Resolution during its meeting of January 8, 2018;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. The City Council authorizes the Mayor to sign the Edgewood Heights Sanitary Sewer Easement, Exhibit A, which is attached hereto and incorporated herein by this reference.

Section 2. Effective Date. This Resolution will take effect upon passage.

PASSED THIS 8TH DAY OF JANUARY, 2019.

Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk
Name & Return Address:
City of Edgewood
409 E Pioneer
Puyallup, WA 98372

**Washington State Recorder's Cover Sheet** *(RCW 65.04)* Please print legibly or type information.

<table>
<thead>
<tr>
<th>Document Title(s)</th>
<th>Easement for sewer Facilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grantor(s)</td>
<td>Edgewood Heights, LLC</td>
</tr>
<tr>
<td></td>
<td>Additional Names on Page ___ of Document</td>
</tr>
<tr>
<td>Grantee(s)</td>
<td>City of Edgewood</td>
</tr>
<tr>
<td></td>
<td>Additional Names on Page ___ of Document</td>
</tr>
<tr>
<td>Legal Description</td>
<td>Edgewood Heights - Short Plat Lot 1 of 201705045005</td>
</tr>
<tr>
<td></td>
<td>Complete Legal Description on Page 5 of Document</td>
</tr>
<tr>
<td>Auditor's Reference Number(s)</td>
<td></td>
</tr>
<tr>
<td>Assessor's Property Tax Parcel/Account Number(s)</td>
<td>0420100034</td>
</tr>
<tr>
<td>Non Standard Fee</td>
<td>$50.00</td>
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<tr>
<td>By signing below, you agree to pay the $50.00 non standard fee.</td>
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<tr>
<td>I am requesting an emergency non standard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.</td>
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</tbody>
</table>

Signature of Party Requesting Non Standard Recording

NOTE: Do not sign above or pay additional $50.00 fee if document meets margin/formatting requirements.

The Auditor/Recorder will rely on the information provided on this cover sheet. Staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

**Excise Tax Exempt Date** 1-10-19

Pierce County

By. Auth. Sig.
EAEMENT FOR SEWER FACILITIES

THIS EAEMENT FOR SEWER FACILITIES ("Easement") is hereby entered into this 9th
day of January, 2019 ("the "Effective Date") by and between the City of
Edgewood, a municipal corporation of Pierce County, Washington, hereinafter termed "Grantee" and
EDGEWOOD HEIGHTS, LLC, hereinafter termed "Grantor".

WITNESSETH:

Grantor, for and in consideration of TEN AND NO/100 ($10.00) DOLLARS, and other valuable
consideration, the receipt and sufficiency of which is hereby acknowledged, hereby conveys to the
Grantee:

A perpetual, non-exclusive easement for sewer facilities, including without limitation sewer
mains, conveyance pipes, laterals, cleanouts, pumps and manholes, and all appurtenances related thereto
(collectively, "Grantee’s Facilities"), under, through, over and across the real property described in
Exhibit “A” attached hereto and incorporated herein by reference (hereinafter, the “Property”). The
location of said easement upon the Property (hereinafter, “Easement Area”) shall be as described in
Exhibit “B”, and as depicted in Exhibit “C”, both of which are attached hereto and incorporated herein by
reference.

Grantor and Grantee hereby covenant and agree to the following terms, provisions and
conditions:

1. **Right of Access and Use.** Grantee and its agents, contractors, designees or assigns shall
have the right at such time as Grantee deems necessary, to install, construct, repair, replace, reconstruct,
operate and maintain Grantee’s facilities within the Easement Area, and to enter upon the Property for
such purposes, without incurring any legal obligation or liability therefore. Except for emergent
situations, Grantee shall reasonably endeavor to provide 24 hours written or verbal notice to Grantor prior
to such entry. Grantee’s rights hereunder shall expressly include without limitation the right, but not the
requirement, to improve and maintain the surface of Easement Area as deemed necessary in Grantee’s
sole discretion to reasonably accommodate vehicular access to Grantee’s Facilities. Grantee’s rights
hereunder shall be exercised in a manner that prevents unnecessary destruction or unreasonable
disturbance of existing private improvements upon the Property, except as provided hereunder.

2. **Noninterference.** Grantee’s access to and across the Easement Area shall be
unrestricted. Grantor shall avoid and prevent interference with and/or obstruction of the Easement Area
and Grantee’s Facilities as follows:

   A. Grantor shall not construct, plant or install, or allow to be constructed, planted or
      installed, any building, wall, fence, tree, rockery or structure of any kind within the Easement Area unless
      approved in writing by Grantee.

   B. Grantor shall not deposit, or allow to be deposited, any fill material within the
      Easement Area.

Easement-West Side Phase I-6317005 (Form Update 1/16/15)
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EASEMENT FOR SEWER FACILITIES

C. Grantor shall not dig, tunnel or excavate, or allow any digging, tunneling or excavation, within three feet (3’) of Grantee’s Facilities, and Grantor shall ensure that the ground surface within the Easement Area is maintained at the level and grade approximately extant at the time Grantee’s Facilities were installed, except for minor, temporary disturbances not affecting Grantee’s Facilities.

D. Grantor shall not construct or install, or allow to be constructed or installed, any water or sewer facilities or appurtenance, other than Grantee’s Facilities, within or proximate to the Easement Area without Grantee’s prior written authorization. If authorized by Grantee, any such facilities shall comply with all applicable regulatory standards, including without limitation the then-current edition of the “Criteria for Sewage Works Design” published by the Washington Department of Ecology.

E. Grantor shall not construct or install, or allow to be constructed or installed, any other utility facilities or appurtenances of any kind, including without limitation any utility service connections, within three feet (3’), measured horizontally for parallel alignments, or within six inches (6’’), measured vertically for crossing or perpendicular alignments, of any portion of Grantee’s Facilities.

F. Grantor shall not in any manner block, restrict or impede, or allow to be blocked, restricted or impeded, Grantee’s access to or use of the Easement Area.

G. Grantor shall not convey to any third party any easement, license or other interest or right of use involving the Easement Area that would impair, interfere with or limit the easement rights granted herein.

3. Maintenance; Removal of Encroachments and Obstructions. The Easement Area shall be maintained by Grantee in accordance with applicable local regulatory standards. In the event of any encroachment, obstruction or interference of or upon the Easement Area or Grantee’s Facilities, Grantee may require removal and/or termination thereof, and the same shall be accomplished promptly at Grantor’s expense. Alternatively, Grantee may take such action as deemed necessary in Grantee’s reasonable discretion to accomplish such removal and/or termination, and may charge to Grantor all expenses incurred therefor. Grantee’s failure to require removal or termination of any encroachment, obstruction or interference shall neither constitute a waiver of Grantee’s rights nor preclude any other remedy available to Grantee.

4. Site Remediation. Any existing improvements upon the Property that neither encroach upon, nor conflict with, the rights conveyed to Grantee hereunder that may be disturbed or destroyed by Grantee’s Facilities, or Grantee’s activities related thereto, shall be replaced, repaired, or otherwise restored as reasonably practicable, to the pre-event condition by and at Grantee’s expense.

5. Warranty of Title. Grantor represents and warrants that Grantor is the lawful owner of the Property, that the rights and privileges set forth herein do not breach or otherwise violate the legal rights of any third-party, and that Grantor is fully authorized to executed and grant this Easement.
6. **Indemnification.** Grantee shall indemnify and hold harmless Grantor from and against any and all claims, losses, costs, suits and causes of action, including attorneys' fees, for any injury, damage, loss of expense arising out of or otherwise resulting from Grantee's use of the Easement Area. Grantor shall indemnify and hold harmless Grantee from and against any and all claims, losses, costs, suits and causes of action, including attorneys' fees, for any injury, damage, loss or expense arising out of or otherwise resulting from any breach or violation by Grantor hereunder. Each party's obligations under this section shall apply only to the extent such injury, damage, loss or expense is proximately caused by the negligence or willful misconduct of that party or the party's agents or invitees.

7. **Dispute Resolution.** This Easement shall be governed by the laws of the State of Washington. The exclusive venue for any litigation arising out of this Easement shall be the Superior Court for Pierce County, Washington. The substantially prevailing party in any such litigation shall be entitled to its reasonable attorneys' fees from the nonprevailing party.

8. **Binding Effect; Modification.** This Easement, and each of the terms, provisions, conditions and covenants set forth herein shall run with the land and be binding upon and apply to the benefit of the parties hereto and their respective successors, agents, designees or assigns. This Easement may be modified only by a recorded, written instrument mutually executed by the parties hereto or their respective successors or assigns.

9. **Side Sewers.** Grantee shall have the right to issue permits to third parties to operate and maintain side sewers within the Easement Area.

10. **No Third-Party Beneficiary.** The rights, duties and obligations set forth in this Easement are for the exclusive benefit of the signatory parties and their respective successors, agents, designees or assigns, and may only be enforced thereby. Nothing herein shall be construed as vesting any rights for or in any third-party.

11. **City Council Approval.** This Easement is contingent upon acceptance and approval by the Edgewood City Council. It is expressly acknowledged and understood by the parties that the terms and provisions hereof shall not become binding upon Grantee unless and until such acceptance and approval has occurred.
EASEMENT FOR SEWER FACILITIES

Date: __________________________

EDGECOUD HEIGHTS, LLC

By: __________________________

Its: __________________________

Accepted and Approved

CITY OF EDGEWOOD

By: __________________________

Date: __________________________

Attest

By: __________________________

Date: __________________________

STATE OF Washington

County of King

I certify that I know or have satisfactory evidence that Gary Fulk 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 member of EDGEWOOD HEIGHTS LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: November 20-2018

(Signature) D. L. Saner

Notary Public

Title Notary

My appointment expires 3-16-19

For recording in the State of Washington, the Notarial Seal must be fully legible and cannot intrude into document margins. Please affix seal in the space provided.
EASEMENT FOR SEWER FACILITIES

EXHIBIT “A”
LEGAL DESCRIPTION
PROPERTY
PIERCE COUNTY TAX PARCEL NUMBER 0420106034

LOT 1 OR CITY OF EDGECOMBO SHORT PLAT NO. 5212, RECORDED WITH THE PIERCE COUNTY AUDITOR, RECORDING NUMBER 201705045005
COMMENCING AT THE NORTHWEST CORNER OF LOT 1, CITY OF EDGEWOOD SHORT PLAT NO. 5212, RECORDING NO. 201705045005, RECORDS OF THE PIERCE COUNTY AUDITOR, LOCATED IN THE NW ¼ AND THE NE ¼ OF THE NW ¼ OF SECTION 10, TOWNSHIP 20 NORTH, RANGE 4 EAST OF THE W.M., ON THE EAST MARGIN OF MERIDIAN AVE E (SR161); THENCE SOUTH 01°44'08" WEST, ALONG SAID EAST MARGIN, AND WEST LINE OF SAID LOT 1, A DISTANCE OF 163.66 FEET, TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 88°15'55" EAST, LEAVING SAID EAST MARGIN, AND SAID WEST LINE, A DISTANCE OF 4.95 FEET; THENCE NORTH 46°44'05" EAST, A DISTANCE OF 43.01 FEET; THENCE SOUTH 88°15'55" EAST, A DISTANCE OF 450.87 FEET; THENCE NORTH 51°42'29" EAST, A DISTANCE OF 59.48 FEET, TO THE WEST LINE OF TRACT "A" OF SAID SHORT PLAT, AND TO A POINT OF CUSP ON A CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 280.00 FEET AND A CENTRAL ANGLE OF 3°13'09" AND BEING SUBTENDED BY A CHORD WHICH BEARS SOUTH 20°59'56" EAST 15.73 FEET; THENCE SOUtherLY AND SOUTHEASTERLY ALONG SAID CURVE, AND WEST LINE OF SAID TRACT "A", A DISTANCE OF 15.73 FEET; THENCE SOUTH 51°28'27" WEST, LEAVING SAID WEST LINE, A DISTANCE OF 52.32 FEET; THENCE SOUTH 47°42'14" EAST, A DISTANCE OF 34.27 FEET; THENCE SOUTH 00°48'34" WEST, A DISTANCE OF 341.25 FEET; THENCE NORTH 89°11'26" WEST, A DISTANCE OF 15.00 FEET; THENCE NORTH 00°48'34" EAST, A DISTANCE OF 191.16 FEET; THENCE NORTH 89°11'27" WEST, A DISTANCE OF 160.22 FEET; THENCE NORTH 00°48'33" EAST, A DISTANCE OF 15.00 FEET; THENCE SOUTH 89°11'27" EAST, A DISTANCE OF 160.22 FEET; THENCE NORTH 00°48'34" EAST, A DISTANCE OF 128.34 FEET; THENCE NORTH 47°42'14" WEST, A DISTANCE OF 37.41 FEET; THENCE NORTH 88°15'55" WEST, A DISTANCE OF 439.11 FEET; THENCE SOUTH 46°44'05" WEST, A DISTANCE OF 43.01 FEET; THENCE NORTH88°15'55" WEST, A DISTANCE OF 11.16 FEET, TO THE EAST MARGIN OF SAID MERIDIAN AVE E, AND THE WEST LINE OF SAID LOT 1; THENCE NORTH 01°44'08" EAST, ALONG SAID EAST MARGIN AND SAID WEST LINE A DISTANCE OF 15.00 FEET TO THE TRUE POINT OF BEGINNING.