

After recording return to:
Tacoma Mall Plaza
2702 S. 42nd Street, Suite 201
Tacoma, WA 98409-7322

**STORM DRAINAGE EASEMENT FOR PUBLIC
STORMWATER RUNOFF (DISCHARGE) TO**

(Individual)

S/T/R _____
Project Name _____
Application No. _____
Project ID No. _____

For purposes of this agreement and for indexing by the Auditor as required by R.C.W. Ch. 65.04, the parties to this agreement are:

their/its heirs, successors, or assigns, hereinafter Grantor, and "the Grantee" "Pierce County," or "County."

RECITALS:

Whereas, Grantor is the owner of real property as described below (hereinafter referred to as the "**Private Stormwater Facility**") in Pierce County, Washington.

LEGAL DESCRIPTION OF PROPERTY: (Abbreviated legal description if complete legal will not fit here and reference to where complete legal can be found.)

Assessor Parcel No.(s) _____

Whereas, Grantor is required by the Pierce County Development Regulations to make certain road improvements that accommodate stormwater runoff from the public road known as _____
(hereinafter referred to as **Public Road**).

Whereas, Grantor agrees to receive the stormwater runoff from the **Public Road** into the **Grantor's Private Stormwater Facility** in response to the above development requirement.

Whereas, Grantor's property will be burdened by receiving additional stormwater from the **Public Road**, and it will be benefited by having additional land to develop.

Whereas, Grantor will be solely responsible for operating, maintaining and repairing all components of the **Private Stormwater Facility** per the approved and accepted maintenance plan.

NOW THEREFORE, for and in consideration of mutual benefits and in further consideration of the general public welfare and of the peculiar and special benefits to accrue therefrom, and in consideration of the performance by Grantee of the covenants, terms, and conditions hereinafter set forth, Grantor and Grantee agree as follows:

1. **Perpetual Easement.** Grantor(s), its heirs, its successors and assigns, grant to Grantee, its appointed and elected officers, employees, and agents, a perpetual and assignable easement with the right of immediate entry and continued access for the purpose of inspecting the Private Stormwater Facility and allowing stormwater to flow from the Public Road into the Private Stormwater Facility over, under and across the property described on page 1. Additionally, all rights, title and privileges granted under this easement, including the benefits and burdens, shall run with the land and shall be binding upon and inure to the parties hereto, their respective heirs, devisees, executors, administrators, grantees, assigns and successors in interest.

2. **Costs of Construction and Maintenance of the Private Stormwater Facility.** Grantor(s) shall bear all costs, expenses, and risks arising out of or in any way relating to the inspection, construction, operation, maintenance, and repair of the **Private Stormwater Facility**. Grantor is fully responsible for constructing, operating, maintaining and repairing this drainage system that crosses the property described on page 1. Grantor responsibilities shall also include but not be limited to:

- a. Clearing culverts in Grantor's stormwater drainage system.
- b. Grantor is responsible for the adequacy of the stormwater drainage system design.
- c. Grantor is responsible for controlling the stormwater runoff that will be created by the development.
- d. The drainage course crossing this plat shall be retained and kept free and open to pass stormwater runoff through this or future subdivisions.

If upon inspection by Grantee, the storm drainage system is not being properly maintained or repaired, Grantee shall make the necessary repairs and all expenses for those repairs or maintenance shall be paid by Grantor.

3. Indemnification and Hold Harmless The Grantor agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Grantor, his/her Subcontractors, its successor or assigns, or its or their agent, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County, its appointed or elected officials or employees.

It is further provided that no liability shall attach to the County by reason of entering into this agreement act, except as expressly provided herein.

The following paragraph applies to all work in connection with or collateral to, a contract or agreement relative to construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate, including moving and demolition in connection therewith:

If the claim, suit, or action for injuries, death, or damages as provided for in the preceding paragraph of this contract is caused by or results from the concurrent negligence of (a) the indemnitee or the indemnitee's agents or employees, and (b) the indemnitor or the indemnitor's agents or employees, the indemnity provisions provided for in the preceding paragraph of this contract shall be valid and enforceable only to the extent of the indemnitor's negligence.

4. Release for Flooding or Water Quality Issues of Property. Grantor, its successors and assigns hereby release and hold Grantee harmless from any and all liability or damage caused by the storm water flow or water quality across the property described on page 1, which may arise in any manner whatsoever.

5. Successors and Assigns. The rights and obligations of the Grantor and Grantee as set forth in this agreement is binding upon and shall inure to the benefit of its/their respective successor(s) and assign(s), and the appointed or elected officials, agents, and employees thereof, subject to the following condition: Grantee shall not assign its rights hereunder without the prior written consent of Grantor, which consent shall not be unreasonably withheld. No assignment of the privileges and benefits inuring to Grantee or assignment of the obligations or liabilities of Grantee, whether by operation of law or otherwise, shall be valid without the prior written consent of Grantor, which consent shall not be unreasonably withheld.

6. Compliance with Laws and Rules. Grantee shall comply with all environmental permits, rules and regulations, and any other applicable statutes, rules, regulations whether federal, state, or municipal, relating to the **Private Stormwater Facility**.

7. **Notice.** Any notice provided for or concerning this agreement shall be in writing and shall be deemed given when sent by certified or registered mail if sent to the respective address of each party as set forth below.

To Grantor: _____

To Grantee: Public Works, Director
Pierce County Planning and Public Works
2702 South 42nd Street, Suite 201
Tacoma, WA 98409-7322

8. **Choice of Law, Jurisdiction and Venue.** This agreement shall be governed by, construed, and enforced in accordance with the laws and regulations of the United States, the State of Washington, and the ordinances of the Pierce County. The venue of any action arising out of or in any way relating to this agreement, or the Project, shall be in the Superior Court of Pierce County, Washington.

9. **No Waiver.** The failure of either Grantor or Grantee to insist upon the performance of any of the terms and conditions of this agreement, or the waiver of any breach of any of the terms and conditions of this agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

10. **Attorney Fees and Costs.** In the event of any controversy, claim, or dispute arising out of or in any way relating to this agreement or its breach, the prevailing party shall be entitled to recover its cost and reasonable attorney fees.

11. **Effect of Partial Invalidity.** The invalidity of any portion of this agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any other portion of this agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

12. **Entire Agreement.** This agreement shall constitute the entire agreement between the parties and any prior oral understanding or representation of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated in this agreement.

13. **Modification of Agreement.** Any modification of this agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

14. **Authorization to Sign.** The parties hereto each represent and warrant that all necessary signatures and consents to enter this agreement/easement and to assume and perform the obligations hereunder have been duly and properly obtained.

15. **Covenants Running with the Land.** The above covenants and agreements are covenants running with the land binding the Grantor and Grantee, their heirs, devisees, executors, administrators, grantees, assigns and successors in interest.

