

## NORTH BEND: UNITY PARK

### REAL ESTATE PURCHASE AND SALE AGREEMENT AMENDED EASEMENT

This Agreement is made as of the date this instrument is fully executed by and between CITY OF NORTH BEND, a political subdivision of the State of Washington ("Seller"), and KING COUNTY, a political subdivision of the State of Washington ("Buyer"), for purchase and sale of that certain Amendment to Deed of Conservation Easement situated in King County, Washington, described on Exhibit "A", and all rights appurtenant thereto (the "Amended Easement")

**1. PURCHASE PRICE:** The total purchase price for the Amended Easement is **One Hundred Fifty Thousand and No/100 Dollars (US \$150,000.00)** ("Purchase Price"). The Purchase Price is payable at closing in cash.

**2. TITLE:**

**2.1 Conveyance by Amended Easement:** At closing, Seller will execute and deliver to Buyer that certain Amendment to Deed of Conservation Easement to include an additional 1.15 acres of Seller's property. The Deed of Conservation Easement to be amended is between The Trust for Public Land, a California nonprofit public benefit corporation as Grantor and King County, a Political Subdivision of the State of Washington as Grantee recorded on March 29, 2017 under recording number 20170329001304 conveying and warranting good and marketable title to the Amended Easement free and clear of all defects or encumbrances except those defects and/or encumbrances (if any) identified on Exhibit "B" (collectively, "Permitted Exceptions"). The Amended Easement will be provided to escrow by Buyer for execution by Seller in closing, the form of which is attached hereto as Attachment "A".

**2.2 Title Insurance:** At closing, Buyer shall receive (at Buyer's expense) an owner's Standard ALTA policy of title insurance, dated as of the closing date and insuring Buyer in the amount of the Purchase Price against loss or damage by reason of defect in Buyer's title to the Amended Easement subject only to the printed exclusions appearing in the policy form and any Permitted Exceptions.

**3. CONTINGENCIES:**

**3.1 Funding:** The sale of the Amended Easement is contingent on receipt of grant funding and/or appropriation by the Metropolitan King County Council of funds sufficient to close the sale.

3.2 **Removal of Contingencies:** King County shall have a period of 30 days from the date all parties have signed this Agreement to remove all contingencies. King County may remove such contingencies by sending written notice thereof to Seller pursuant to Paragraph 7 herein. If the contingencies are not removed within this period, this Agreement shall be null and void.

4. **RISK OF LOSS:** Seller will bear the risk of loss of or damage to the Amended Easement property prior to closing. In the event of such loss or damage to the Amended Easement property, Seller shall promptly notify Buyer thereof and Buyer may, in its sole discretion, terminate this Agreement by giving notice of termination to the Seller.

5. **SELLER'S REPRESENTATIONS, WARRANTIES AND COVENANTS:**

Seller represents, warrants and covenants to the Buyer at the date of execution of this Agreement and the date of closing that:

5.1 **Authority:** Seller, and the person(s) signing on behalf of Seller, has full power and authority to execute this Agreement and perform Seller's obligations, and if Seller is a corporation, all necessary corporate action to authorize this transaction has been taken;

5.2 **No Leases:** The Amended Easement property is not subject to any leases, tenancies or rights of persons in possession;

5.3 **No Material Defect:** Seller is unaware of any material defect in the Amended Easement property;

5.4 **Contamination:** Seller represents and warrants that he/she/it has not caused or allowed the general treatment, storage or disposal of hazardous substances on the property within the Amended Easement, except in accordance with local, state, and federal statutes and regulations, nor caused or allowed the release of any hazardous substance onto, at, or near the Amended Easement. Seller is in compliance with all applicable laws, rules, and regulations regarding the handling of hazardous substances, has secured all necessary permits, licenses and approvals necessary to Seller's activities on the property within the Amended Easement and is in compliance with such permits. Seller has not received notice of any proceedings, claims, or lawsuits arising out of its operations on the property within the Amended Easement and, to the Seller's knowledge, the property within the Amended Easement is not, nor has it ever been subject to the release of hazardous substances.

5.5 **Fees and Commissions:** Seller shall pay for any broker's or other commissions or fees incurred by the Seller in connection with the sale of the Amended Easement and Seller shall indemnify and hold Buyer harmless from all such claims for commission and/or fees.

5.6 **Indemnification:** Seller agrees to indemnify, defend, and hold harmless Buyer, its employees, agents, heirs and assigns, from and against any and all damage, claim, liability, or loss, including reasonable attorney's and other fees, arising out of or in any

way connected to the breach of any representation or warranty contained herein. Such duty of indemnification shall include, but not be limited to damage, liability, or loss pursuant to all federal environmental laws, Washington State environmental laws, strict liability and common law.

## 6. CLOSING:

**6.1 Time for Closing:** The sale will be closed in the office of the Closing Agent not later than twenty one (21) days from the date all contingencies set forth in Paragraph 3 herein have been removed, or as soon thereafter as practicable.

Buyer and Seller shall deposit in escrow with the Closing Agent all instruments, documents and moneys necessary to complete the sale in accordance with this Agreement. As used in this Agreement, "closing" and "date of closing" means the date on which all appropriate documents are recorded and proceeds of the sale are available for disbursement to Seller. The Closing Agent shall be:

Chicago Title Company of Washington  
10500 NE 8<sup>th</sup> Street, Suite 600  
Bellevue, WA 98004

**6.2 Prorations:** Closing Costs: Seller will pay real estate excise taxes (if any are due) and real property taxes paid current through the date of closing. Buyer will pay the premium for its owner's title insurance policy, the cost of recording the Amended Easement from the Seller, and the Closing Agents escrow fees.

**6.3 Possession:** Buyer shall be entitled to possession of the Amended Easement upon Buyers' deposit of funds into escrow in an amount equal to the purchase price plus any escrow fees, title insurance premiums or other fee, charge or proration which it is required to pay under the terms of this Agreement.

**7. NOTICES:** Any notices required herein shall be given to the parties at the addresses listed below:

**TO SELLER:**

Londi Lindell, City Administrator  
City of North Bend  
P.O. Box 896  
211 Main Avenue North  
North Bend, WA 98045

**TO BUYER:**

King County Water and Land Resources Division  
Open Space Acquisitions  
201 South Jackson Street, Suite 600  
Seattle, WA 98104

**8. GENERAL:** This Agreement, including its attachments, is the entire agreement of the Buyer and Seller with respect to the Amended Easement and supersedes all prior or

contemporaneous agreements between them, written or oral. This Agreement may be modified only in writing, signed by Buyer and Seller. Any waivers under this Agreement must be in writing. A waiver of any right or remedy in the event of a default will not constitute a waiver of such right or remedy in the event of any subsequent default. This Agreement is for the benefit of, and binding upon, Buyer and Seller and their heirs, personal representatives, successors and assigns. The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of any other provision. Time is of the essence in this Agreement.

**9. WASTE; ALTERATION OF PROPERTY:** Seller shall not commit waste on the Property, nor shall Seller remove trees or other vegetation, coal, minerals or other valuable materials nor shall Seller substantially alter the surface or subsurface of the Amended Easement Area of the property without the express written consent of Buyer.

**10. SURVIVAL OF WARRANTIES:** The terms, covenants, representations and warranties shall not merge in the Amended Easement conveyance, but shall survive closing.

**11. TERMINATION OF OFFER:** This offer shall terminate if not accepted by Seller on or before December 30, 2017.

Signed in duplicate original.

BUYER: King County, a political subdivision  
of the State of Washington.

BY: \_\_\_\_\_

Christie True, Director  
Department of Natural Resources and Parks

Date: \_\_\_\_\_

SELLER: City of North Bend, a municipal corporation  
of the State of Washington

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By: Kenneth G. Hearing, Mayor

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Date

**EXHIBITS:**

**Exhibit A:** Legal Description

**Exhibit B:** Permitted Exception/Title Report

**Attachment A:** Amendment to Easement

STATE OF WASHINGTON) )SS.  
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 signed this instrument, on oath stated that \_\_\_\_\_ he is authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of the Department of Natural Resources and Parks of King County to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

Printed name

Notary Public in and for the  
State of Washington

Residing at \_\_\_\_\_

My appointment expires \_\_\_\_\_

I certify that I know or have satisfactory evidence that Kenneth G. Hearing is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledged it as the Mayor of City of North Bend to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated:

Printed name

Notary Public in and for the  
State of Washington

Residing at \_\_\_\_\_

My appointment expires

EXHIBIT A

LEGAL DESCRIPTION

## EXHIBIT B

### PERMITTED EXCEPTIONS/TITLE REPORT

Those special exceptions listed on Chicago Title Company of Washington Title Report #dated, and any supplements thereto (which Title Report and Supplements are incorporated into this Agreement by this reference) numbered.

## ATTACHMENT A

**Upon recording return to:**

**King County  
Department of Natural Resources  
Water and Land Division  
Open Space Acquisitions Unit  
201 S. Jackson St., Suite 600  
Seattle, WA 98104**

**Grantor: City of North Bend, a Political Subdivision of the State of Washington,  
as successor in interest to The Trust for Public Land**

**Grantee: King County, a Political Subdivision of the State of Washington**

**Abbreviated Legal Description: Ptn. NE 1/4, SE 1/4, Sect. 8, T23N, R8E**

**Parcel No.: 082308-9014-02**

### **AMENDMENT TO DEED OF CONSERVATION EASEMENT**

**WHEREAS**, Grantor and Grantee make the following recital:

Grantor is the sole owner in fee simple of the real property legally described in Exhibit A, attached to and made a part of this amendment which consists of approximately 16.67 acres of land located in King County, Washington. A portion of said Grantor's property covering 1.7 acres and as delineated on Exhibit B (Original Exhibit B) as contained therein is currently encumbered by that certain Deed of Conservation Easement between The Trust for Public Land, a California nonprofit public benefit corporation as Grantor and King County, a Political Subdivision of the State of Washington as Grantee recorded on March 29, 2017 under recording number 20170329001304. The Grantor and Grantee have agreed to amend said Deed of Conservation Easement to expand the area as originally encumbered therein to include an additional 1.15 acres to encumber a total of 2.85 acres of the Grantor's property legally described in Exhibit C, attached to and made a part of this amendment. A map of the property and 2.85 acres easement is attached to, and made part of this amendment, as Exhibit B (Amended Exhibit B). Grantor and Grantee have agreed to include said expanded area as if that area had been included in the original Deed of Conservation Easement and that all of its terms contained therein remain the same.

**NOW, THEREFORE**, for valuable consideration received by said Grantor, the parties hereto agree that Exhibit B (Original Exhibit B) covering 1.7 acres as contained in said Deed of Conservation Easement recorded on March 29, 2017 under recording number 20170329001304 is hereby amended to include an additional 1.15 acres to encumber a

total of 2.85 acres of the Grantor's property. A map of the property and 2.85 acres easement is attached to, and made part of this amendment, as Exhibit B (Amended Exhibit B). A legal description of said 2.85 acres of the Grantor's property is hereby added as Exhibit C, attached to and made a part of this amendment. Grantor and Grantee agree to include said expanded area as if that area had been included in said Deed of Conservation Easement and that all of the original easement area together with the expanded easement area are subject to all of the terms contained therein.

In witness whereof King County has set its hand and seal this \_\_\_\_ day of  
\_\_\_\_\_, 2017.

Grantor:

City of North Bend, a Political Subdivision of the State of Washington

\_\_\_\_\_  
By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Grantee:

King County, a political subdivision of the State of Washington

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF WASHINGTON )  
 )SS.  
COUNTY OF KING )

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

Dated: \_\_\_\_\_

Printed name

Notary Public in and for the  
State of Washington  
Residing at \_\_\_\_\_

My appointment expires \_\_\_\_\_

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 is authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of King County to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated:

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Printed name

Notary Public in and for the  
State of Washington

Residing at

My appointment expires

## EXHIBIT A

### PROPERTY LEGAL DESCRIPTION

That portion of the Northeast Quarter of the Southeast Quarter of Section 8, Township 23 North, Range 8 East, W.M. in King County, Washington described lying Southerly of the Southerly margin of 415<sup>th</sup> Avenue Southeast.

EXHIBIT B

AMENDED EXHIBIT B PROPERTY MAP – 2.85 ACRE EASEMENT AREA

EXHIBIT C  
EASEMENT LEGAL DESCRIPTION