



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

October 29, 2007

Ordinance 15942

Proposed No. 2007-0508.2

Sponsors Constantine

1 AN ORDINANCE authorizing the executive to execute a
2 term-limited easement and bill of sale and all other
3 necessary conveyance documents to grant certain property
4 rights to the YWCA to facilitate the development of
5 Passage Point, adjacent to the Cedar Hills landfill, located
6 in council district 9.

7
8 BE IT ORDAINED BY THE COUNTY COUNCIL OF KING COUNTY:

9 **SECTION 1. Findings:**

10 A. King County owns an approximately nine-hundred-twenty-acre parcel of land
11 known as the Cedar Hills landfill, which was acquired by King County from the state of
12 Washington.

13 B. Within the buffer of the landfill, a residential in-patient treatment facility was
14 developed by the State, and operated by King County. The facility was known as the
15 Cedar Hills Alcohol Treatment facility, or CHAT.

16 C. In 2005, a proposal to redevelop the property as transitional and affordable
17 housing was developed between King County and the YWCA. This proposal was to

18 create up to seventy units of affordable housing over two phases in a project called
19 Passage Point.

20 D. In its 2006 Budget Ordinance, Ordinance 15333, King County committed to
21 pay \$4,000,000 for capital costs and \$100,000 in administrative costs associated with the
22 Passage Point project.

23 E. Two easements with an initial term of fifty years and an option to extend the
24 term for an additional twenty-five years together with a bill of sale transferring certain
25 personal property and site improvements to Passage Point Housing Limited Partnership,
26 which is the entity created by the YWCA to carry out the project, have been negotiated.

27 F. The council hereby finds pursuant to K.C.C. 4.56.080 and 4.56.115 that grant
28 of the term-limited easement is in the best interest of the county.

29 SECTION 2. The King County executive is hereby authorized to execute a term
30 limited easement along with a bill of sale, substantially in the forms of Attachments A

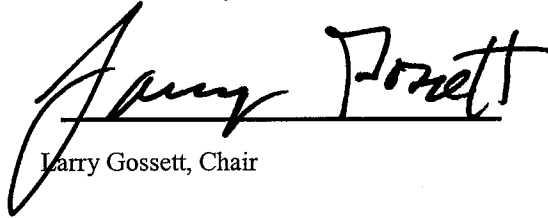
31 and B to this ordinance, and any other necessary documents to convey the easement area
32 rights to Passage Point Housing Limited Partnership.

33

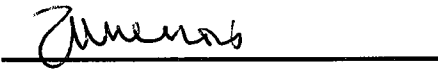
Ordinance 15942 was introduced on 10/8/2007 and passed by the Metropolitan King
County Council on 10/29/2007, by the following vote:

Yes: 9 - Mr. Gossett, Ms. Patterson, Ms. Lambert, Mr. von Reichbauer, Mr.
Dunn, Mr. Ferguson, Mr. Phillips, Ms. Hague and Mr. Constantine
No: 0
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Larry Gossett, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 9 day of NOVEMBER, 2007.



Ron Sims, County Executive

Attachments A. Passage Point Easement, dated 10-29-07, B. Passage Point Bill of Sale and Release
of Liability, dated 10-29-07

RECEIVED
2007 NOV -9 PM 2:17
KING COUNTY COUNCIL

FILED FOR RECORD AT REQUEST

AFTER RECORDING RETURN TO:
King County Real Estate Services Section
500 Fourth Avenue, Room 500A
Seattle, WA 98104

Reference No: P-14-05
Grantor: King County, Washington
Grantee: Passage Point
Legal Des:
Tax ID No:

PASSAGE POINT EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT made this _____ day of _____, 2007, between King County, a political subdivision of the State of Washington, hereinafter called the GRANTOR, and Passage Point Housing Limited Partnership, a Washington limited partnership, hereinafter called the GRANTEE.

W I T N E S S E T H

WHEREAS, the Grantor herein is the owner of that certain parcel of land known as Cedar Hills Landfill/Cedar Hills Alcohol Treatment Facility and described as follows:

That portion of the following described lands situate in King County, Washington:

All, except the NE ¼ of the NE ¼ of Section 21, and the N 1/2, Section 28, all in Township 23 North, Range 6 East, W. M., containing 920 acres, more or less, according to the government survey thereof. Subject to easements for rights of way for transmission lines heretofore granted under Application Nos. F-3901, F-3980, F-4327, F-5305, 30626 and 31326.

The said Grantor, for and in consideration of mutual benefits, do by these presents grant unto said Grantee, its successors and assigns, an easement in gross to use for the construction, operation, maintenance and repair of supportive housing facilities for low income households through, across, over and under the following described Easement Area.

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 23 NORTH, RANGE 6 EAST, W.M., AND THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 23 NORTH, RANGE 6 EAST, W.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 21, SAID POINT BEING THE POINT OF BEGINNING; THENCE NORTH 01°32'37" EAST ALONG THE EAST LINE OF SAID SECTION 21, A DISTANCE OF 962.90 FEET; THENCE NORTH 89°09'54" WEST, A DISTANCE OF 614.45 FEET; THENCE SOUTH 01°50'16" EAST, A DISTANCE OF 959.99 FEET TO THE SOUTH LINE OF SAID SECTION 21; THENCE CONTINUE SOUTHERLY ALONG SAID LINE, A DISTANCE OF 916.33 FEET; THENCE SOUTH 87°57'45" EAST, A DISTANCE OF 501.66 FEET TO THE EAST LINE OF SAID SECTION 28; THENCE NORTH 01°40'25" EAST ALONG THE EAST LINE OF SAID SECTION 28, A DISTANCE OF 922.07 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 1,049,628 SQUARE FEET OR 24.10 ACRES, MORE OR LESS.

Purpose: The Grantee, its successors and assigns, shall have the rights to enter upon and use the Easement Area for the sole purpose of constructing, operating, maintaining, and repairing supportive housing facilities for low income households.

The Grantee herein, by accepting and recording this Easement, agree to the terms and conditions described in "Appendix A" attached hereto, and by reference made part of this Easement.

DATED this _____ day of _____, 2007.

KING COUNTY, WASHINGTON

APPROVED AS TO FORM:

Deputy Prosecuting Attorney

DATED: _____

DATED: _____

[NAME(S) OF COUNTY SIGNATOR(S)]

Passage Point Housing Limited Partnership
a Washington limited partnership
By, YW Home Now LLC
a Washington limited liability company
By: Young Women's Christian Association of
Seattle-King County-Snohomish County,
Sole Member

By _____
Its _____

DATED _____

Young Women's Christian Association of
Seattle-King County-Snohomish County,

By _____
Its _____

DATED _____

STATE OF WASHINGTON)
)SS
COUNTY OF KING)

I certify that _____ signed this instrument, on oath stated that he was authorized by the **King County Executive** to execute the instrument, and acknowledged it as the _____ of King County, Washington to be the free and voluntary act of said County for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 20____.

NOTARY PUBLIC in and for the State of Washington,
Residing at: _____
My appointment expires: _____

STATE OF WASHINGTON)
)ss
COUNTY OF KING)

On this day _____ of _____, 2007, before me personally appeared _____ to me known to be the _____ of the Young Women’s Christian Association of Seattle-King County-Snohomish County, the sole member of YW Home Now LLC, a Washington limited liability company, which is the general partner of Passage Point Housing Limited Partnership, a Washington limited partnership, the individual that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said individual for the uses and purposes therein mentioned in the instrument.

GIVEN under my hand and official seal the day and year last above written.

NOTARY PUBLIC in and for the State of Washington,
residing at: _____
My appointment expires: _____

APPENDIX A
Terms and Conditions

1. **PARTIES**. This easement dated the _____ day of _____, 2007, is between King County, a municipal corporation and a political subdivision of the State of Washington, "Grantor" and the and Passage Point Housing Limited Partnership, a Washington limited partnership, herein after called "Grantee."

2. **EASEMENT AREA**. King County hereby grants to Grantee, upon the following terms and conditions, an easement in gross to be used for the construction, operation, maintenance and repair of supportive housing facilities low income households through, across, over and under the following described Easement Area located in King County, Washington legally described as follows:

Space at the Cedar Hills Addiction Treatment center ("CHAT") grounds and facilities.

Address: 15900 227th Avenue SE, Maple Valley, Washington
 24 acres, approx. (See Exhibit A – legal description)

(the "Easement Area"). Proposed facilities and operations within the Easement Area shall be referred to as the "Project".

3. **TERM**.

A. **TERM OF EASEMENT**. This Easement will terminate and expire fifty (50) years from the date of execution of this Easement (the "Term"). Grantee shall have an automatic extension/renewal/amendment extending term for an additional 25 years. Extension shall be granted with 12 months notice of intent to extend by Grantee.

Notwithstanding this section 3.A, Grantee agrees that this Easement may be terminated by the County following expiration of the initial fifteen (15) year low income housing tax credit compliance period, prior to expiration of the Term or any extension thereof if the County determines by ordinance that use of the site within Easement Area is necessary to further important County related functions. No such termination shall occur except upon the County's providing a minimum of one year advance written notice to the Grantee. Termination shall be conditioned upon the County's paying Grantee fair compensation in an amount equal to the fair market value of the Grantee's remaining interest in the Easement and the Improvements thereon (reflecting the limited term remaining and use limitations resulting from any existing low income housing covenants or other agreements restricting use of the Easement Area), but in no event less than the then existing debt that is both secured by the Easement and the Improvements thereon and either was approved by the King County Department of Community and Human Services or Grantor. In addition, the County shall be responsible for the payment of any relocation expenses to which residents of the Project may be entitled upon such

termination. Upon termination of the Easement, Grantee agrees to record a release in the form of a written deed acceptable to King County causing the Easement interest to revert to King County, its successor or assignee.

4. **COMPENSATION.** Grantee shall pay to King County an amount of FIFTY DOLLARS (\$50.00) as compensation for the rights herein granted. If Grantee elects to extend the term of this Easement, Grantee shall be required to pay Grantor a sum of TWENTY FIVE (\$25.00) at the time of extension.

5. **OBLIGATION TO PROVIDE SERVICES.** In addition to its payment of agreed compensation, in exchange for its use of the Easement Area, the Grantee agrees to provide supportive housing services for the term of the Easement to low income households. For purposes of this Easement "supportive housing services" means the combination of affordable housing with services that support or help residents to live more stable, productive lives; wherein the housing is operated through an affiliation of representatives of the housing owner, property manager, social services providers and the tenants, providing the tenants with access to the array of services needed to lead stable, productive lives. For purposes of this Easement "low income households" shall be households, who at the time of initial occupancy have incomes of no greater than fifty percent (50%) of the area median income. As part of this obligation, Grantee shall provide necessary capital and operations funding for construction, operations, and services at the Easement Area over the life of the term.

6. **USE.** Grantee shall use said Easement Area for the sole purpose of constructing, operating, maintaining, and repairing supportive housing facilities for low income households. Grantee shall be exclusively responsible for the safety of all persons on or about the Easement Area and security of the Easement Area under the control of the Grantee.

7. **KING COUNTY PARKS GREENHOUSE OPERATIONS.** King County operates and maintains a greenhouse and related nursery operations and facilities on a portion of the Easement Area. Grantee's Easement is nonexclusive as to the Greenhouse operation, which King County shall continue to operate in cooperation with Grantee, and which use shall be governed by separate agreement.

8. **MAINTENANCE OF THE EASEMENT AREA.** Grantee shall be responsible for the maintenance of the Easement Area and the Grantee herein agrees to the nonexclusive use of the Common Areas within the Easement Area as described below.

A. **Common Areas Defined.** The term "common areas" means all areas and facilities within the exterior boundaries of the Easement Area that are provided and designated by King County for the nonexclusive use and convenience of Grantee and King County and their respective authorized representatives and invitees. Common areas include: those access roadways and routes, site utility service routes that are located within the Easement Area.

B. **Maintenance and Management.** Grantee along with King County shall cooperate in

maintaining and managing common areas. Grantee herein agrees to conform to King County rules and regulations pertaining to the common areas, and to equitably share in the cost of maintaining and managing the common areas.

- C. Grantee's Right to Use. King County gives to Grantee and its authorized representatives and invitees the nonexclusive right to use the common areas, with others who are entitled to use the common areas, subject to King County's rights.
- D. County Access Unaffected. Nothing in this Easement Agreement is intended to limit or otherwise affect the County's ability: to access to its existing monitoring wells and systems within the Easement Area; to install and/or monitor any new equipment, systems and/or monitoring wells within the Easement Area; or to perform any environmental and/or remedial action within the Easement Area it deems is appropriate, whether or not required to perform such action by any regulatory agency, provided that County site alterations and activities within the Easement Area shall be undertaken to the maximum extent possible in a manner that does not interfere with supportive housing services provided by the Grantee. If such actions by the County render the Use of the Easement, as defined in Section 6 above, impossible the County shall indemnify Grantee from any and all losses, claims, demands or liabilities caused by the County's accessing its existing monitoring wells and systems within the Easement Area; negligent installation and/or monitoring of any new equipment, systems and/or monitoring wells within the Easement Area; or performance of any environmental and/or remedial action within the Easement Area.

9. IMPROVEMENTS/GRANTEE IMPROVEMENTS.

- A. The Grantor agrees to sever from the real property and sell or otherwise convey, for mutual benefits, to Grantee all improvements currently located on the easement area, save any improvements associated with King County's Parks nursery operations and other infrastructure related to monitoring of the adjacent landfill, it being understood and agreed that the King County shall be solely responsible for the costs of maintaining and managing all improvements related to the nursery operations.
- B. The Grantee intends to renovate existing site buildings and construct additional facilities during the term of the Easement. Grantee anticipates that its overall development of the Easement Area will occur in two phases. During 'Phase One', Grantee shall renovate and rehabilitate existing site facilities to create approximately 46 housing units. During 'Phase Two' Grantee intends to construct approximately 24 additional housing units. Such renovation and construction shall be in accordance with detailed plans and specifications approved by King County as required under the separate Housing and Community Development Contract.

Grantee shall take reasonable steps to submit to King County detailed plans and specifications for the proposed Phase One improvements within one hundred and

twenty (120) days after execution of this easement. Grantee will begin construction of the proposed Phase One improvements no later than **180 days** after approval of the plans and specifications by the King County Department of Development and Environmental Services, and shall complete such improvements within 2 years of approval of the plans and specifications.

- C. Grantee intends to submit to King County detailed plans and specifications for the proposed 'Phase Two' improvements within sixty (60) months after execution of this Easement and intends to complete such Phase Two improvements within 2 years following approval of the plans and specifications by the King County Department of Development and Environmental Services. Notwithstanding such intent, Grantees, failure to meet such timelines and/or complete Phase Two shall not constitute a breach of this Easement or a default hereunder.
- D. If Grantee substantially fails to make the Phase I improvements or alterations required by this Easement, this Easement shall be terminated and all rentals paid shall be forfeited to King County. Upon termination of the Easement, Grantee agrees to record a release in the form of a written deed acceptable to King County causing the Easement interest to revert to King County, its successor or assignee.
- E. King County in its sole discretion may provide written authorization for Grantee to construct additional improvements that are in keeping with the uses specified herein.

10. LIMITATION ON IMPLEMENTATION OF SITE DEVELOPMENT AND USES.

Notwithstanding any provision of this Easement Agreement to the contrary, Grantee is precluded from implementing any changes in the existing site and the current use of the property shall remain essentially unchanged until after a final determination of non-significance or final environmental impact statement is issued by the responsible SEPA official pursuant to the State Environmental Policy Act. This section is not intended to preclude Grantee from undertaking repairs, maintenance or minor alterations of existing structures on the site. Nothing in this Agreement is intended to constitute regulatory or permit approval to undertake any of the uses or construction contemplated herein.

11. ENTIRE AGREEMENT - AMENDMENTS.

This printed easement, together with the attached General Terms and Conditions, Special Terms and Conditions, and any and all exhibits expressly incorporated herein by reference shall constitute the whole agreement between the parties. There are no terms, obligations, covenants or conditions other than those contained herein. No modification or amendment of this Easement shall be valid or effective unless evidenced by an agreement in writing signed by both parties. Upon execution of this Easement the entire agreement, together with the attached General Terms and Conditions, Special Terms and Conditions and associated attachments will be recorded with the King County Records Division.

12. NOTICES.

Required notices except legal notices shall be given in writing to the following respective address:

If to COUNTY, to: King County Real Estate Services Section

500A King County Administration Building
500 - 4th Avenue
Seattle, WA 98104

If to GRANTEE, to: Passage Point Housing Limited Partnership
c/o YWCA of Seattle-King County
1118 5th Avenue
Seattle, WA 98101

with a copy to NEF Assignment Corporation, as Nominee
c/o National Equity Fund, Inc.
120 South Riverside Plaza, 15th Floor
Chicago, IL 60606-3908

or to such other respective addresses as either party hereto may hereafter from time to time designate in writing. Notices sent by mail shall be deemed to have been given when properly mailed.

KING COUNTY GENERAL TERMS AND CONDITIONS

1. LICENSE, TAXES AND FEES. Grantee shall pay throughout the term of this Easement all applicable taxes and all license and excise and other applicable fees.
2. COMPLIANCE WITH ALL LAWS AND REGULATIONS. In using the Easement Area, Grantee will comply with all applicable laws, ordinances, and regulations from any and all authorities having jurisdiction. The Grantee specifically agrees to comply and pay all costs associated with achieving such compliance without any notice from King County, and further agrees that King County does not waive this section by giving notice of demand for compliance in any instance.
3. UTILITIES. Grantee shall pay for all costs, expenses, fees, services, and charges of all kinds for heat, light, water, gas, and telephone, and for all other public utilities used in conjunction with the contemplated use of this Easement so that the same shall not become a lien against the easement area. Grantee shall install appropriate metering devices and reimburse the Grantor, at actual cost, at least quarterly, for any utilities provided to the Grantee via the Grantor's distribution system, provided however that King County shall pay and be responsible for all utility costs arising from or relating to its nursery operations...
4. IMPROVEMENTS AND ALTERATIONS. Unless otherwise stipulated, all improvements or alterations erected or made within the Easement Area shall, upon expiration or earlier termination of this Easement, belong to King County without compensation to the Grantee.
5. CONDITION OF EASEMENT AREA. The Grantee has inspected and knows the condition of the Easement Area and it is understood and agreed that the Easement Area is made available for use on an "as is" basis without any obligation on the part of King County to make any changes, improvements, or to incur any expenses whatsoever for the maintenance or repair of the Easement Area.
6. NO WARRANTIES/ACCEPTANCE "AS IS". Grantor does not warrant title to the Easement Area and shall not be liable for defects thereto or failure thereof. King County does not warrant, in its regulatory, ownership or other capacity, either the allowability of proposed uses within the Easement Area or legality of this Easement. Except as otherwise provided in paragraph 10 herein, Grantor does not warrant, and expressly disclaims all warranties (express or implied) regarding the condition of the Easement Area, including without limitation, its environmental condition. Grantee has inspected the Easement Area, and has had an opportunity to have the Easement Area inspected by experts of Grantee's own choosing qualified to discover patent, latent known, and unknown defects in Grantor's title to the Easement Area, and in the condition, including environmental condition, of the Easement Area, and Grantee hereby accepts the same in its "AS IS, WHERE IS" condition, including without limitation its environmental condition, and with all faults defects or deficiencies whether patent, latent, known or unknown, without recourse to Grantor of any

kind; provided, however, Grantor shall not be released from, and Grantee does not accept, any liability to third parties which may result from the release of hazardous materials that occur prior to the date of the conveyance of the Easement hereby except to the extent now or hereafter caused or exacerbated by Grantee or its use of the Easement Area. Nothing in this paragraph is intended to modify County obligations set forth in General Term and Condition Section 10 herein.

- 6A. CONSTRUCTION DEFECTS. King County shall not be liable to the Grantee for claims or damages arising from any defect in the construction of or the present condition of any structures within the Easement Area, whether known or unknown, or for damage by storm, rain, or leakage or any other occurrence.
7. LOCATION OF EASEMENT AREA. The Grantee understands, acknowledges and accepts all risks arising out of the proximity of the Easement Area being within the Buffer Zone of an adjacent active solid waste disposal facility (Cedar Hills Landfill) and adjacent to electrical utility transmission lines.
8. MAINTENANCE.
- A. Grantee shall, throughout the term of this Easement and without cost or expense to King County, keep and maintain the Easement Area and all improvements, including the site and Easement Area utility service lines, drainage systems, access driveways, landscaping, fixtures, and equipment which may now or hereafter exist thereon, in a neat, clean, and sanitary condition and shall, except for reasonable wear and tear, at all times preserve the Easement Area in good and safe repair. Upon the expiration or sooner termination of the Easement, Grantee shall forthwith return the same in as good condition as existed at the commencement of occupancy (ordinary wear and tear accepted).
- B. If, after thirty (30) days' notice from King County, Grantee fails to maintain or repair any part of the Easement Area or any improvement, landscaping, fixtures or equipment thereon, King County may, but shall not be obligated to, enter upon the Easement Area and perform such maintenance or repair, and Grantee agrees to pay the costs thereof to King County upon receipt of a written demand. Any unpaid sums under this paragraph shall be payable within thirty days following the written demand and will bear interest at the maximum rate allowed by Washington State Law.
9. YWCA INDEMNITY DEFENSE AND HOLD HARMLESS. Grantee and the YWCA agree for themselves, their successors, and assigns, to defend, indemnify, and hold harmless King County, its appointed and elected officials, and employees from and against liability for all claims, demands, suits, and judgments, including costs of defense thereof for injury to persons, death, or property damage during such period of time that the Property is occupied by the YWCA (or any entity affiliated with the YWCA, including any limited partnership or limited liability company in which the YWCA or an affiliate thereof serves as the general partner or managing member) which is caused by, or arises out of, the wrongful intentional actions or negligence of the Grantee, the YWCA, its agents, employees or tenants, except to the extent of County's negligence and except to

the extent otherwise provided in Section 10 below.

10. COUNTY INDEMNITY, DEFENSE AND HOLD HARMLESS. The County agrees to indemnify, defend and hold Grantee, its members and their, its successors and assigns, harmless from any and all liabilities, claims, damages, demands, costs, fines, penalties and expenses of any kind or nature, including, without limitation, attorneys' fees, personal injury, death, or property damage (collectively "Claims") by any other party or parties (including a governmental entity) which may be imposed upon or incurred by Grantee, its members and their, successors or assigns arising out of or in connection with: (i) the presence, disposal, escape, migration, leakage, spillage, discharge, emission, release, threatened release, handling, or transportation of landfill-related Hazardous Materials in, on, at, under, from, in the vicinity of, or affecting or related to the Easement Area or any part of the Easement Area (collectively, "Environmental Events") prior to the Closing; (ii) Claims asserted on and after the Closing with respect to any Environmental Event that arose, existed or occurred prior to Closing; (iii) Claims with respect to any Environmental Event that originates, commences or begins on County land outside the Easement Area, whether prior to, on or after the Closing, which affects, influences or migrates upon, onto, under or over the Easement Area; and (iv) any lawsuit brought or threatened, settlement reached by the County, or government hearing, investigation, inquiry, proceeding, or order relating to any Environmental Events or landfill-related violations of any environmental statutes or regulations within the scope of the indemnified Claims described in items (i) through (iii) hereinabove. Grantee shall provide prompt notice to the County of any such Claims and shall authorize the County to control associated litigation and defense.

The County's obligation to indemnify, defend and hold the Grantee its members and their successors and assigns harmless pursuant to this section shall subject to the provisions herein, apply only if the Grantee has i) obtained a written release, prepared by the County, from Project residents waiving claims against King County arising out of or related to any Environmental Event and ii) documentation that Project residents have been provided copies of written materials prepared by the County (expressly indicating that such information is provided by the County and that Grantee and its members and their successors and assigns are in no way responsible for the content thereof), regarding potential landfill hazards and landfill operations. Notwithstanding any other provisions herein, the requirement to provide such releases shall not apply to the extent, such requirement is enjoined or otherwise determined illegal or unenforceable by any court or governmental entity. It is further agreed and acknowledged that Grantee, its members and their successors and assigns, make no representation of warranty as to the validity or enforceability of such waivers and shall have no responsibility to participate in any action relating to such enforceability.

Grantee is aware that the proximity of the Project to current and former landfill activities may subject proposed development to additional design and construction costs, including but not limited to the requirement to comply with Seattle King County Board of Health Code section 10.09.60 (requiring that structures be protected from potential methane migration and protections be designed by qualified professionals). Any additional design

or costs due to such requirements are their responsibility of the Grantee and are not affected by this section of the Easement Agreement.

11. RCW 4.24.115. To the extent that this Agreement is deemed to fall within the scope of RCW 4.24.115, then notwithstanding any other provisions herein, the following shall apply. All provisions of this Agreement pursuant to which a party (the "Indemnitor") agrees to indemnify the other (the "Indemnitee") against liability for damages arising out of bodily injury to persons or damage to property relative to the construction, alteration, repair, addition to, subtraction from, improvement to or maintenance of any building, road or other structure, project, development or improvement attached to land, including the Easement Area, (i) shall not apply to damages caused by or resulting from the sole negligence of the Indemnitee, its agents or employees, and (ii) to the extent caused by or resulting 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, shall apply only to the extent of the Indemnitor's negligence. The parties specifically agree that the provisions of this paragraph also apply to any claim of injury or damage to the parties' respective employees or their property. Each party acknowledges and agrees that as to such claims only, it waives any right of immunity that it may have under Title 51 RCW.
12. PROPERTY INSURANCE DURING OPERATIONS AND ACTIVITIES. Grantee's failure to procure and maintain the insurance provided herein, shall constitute a Default that materially jeopardizes the County's security under this Easement Agreement.
- A. The Grantee will carry fire and extended coverage insurance in an amount equal to the full insurable value of all improvements, structures, and buildings located on the Easement Area. The policy shall include King County as loss payee for its vested interest in the property. A certificate of insurance must be provided to King County. King County will not carry insurance on Grantee's property.
- B. In the event of the total or partial destruction by fire, regardless of origin, or otherwise of the building, structures, or facilities currently on the Easement Area or subsequently constructed by the Grantee, the Grantee shall have the obligation to commence reconstruction of such facilities within such time frame as is required to maintain any nonconforming use status in compliance with applicable building and land use code requirements.

13. INSURANCE REQUIREMENTS DURING OPERATIONS AND ACTIVITIES. Grantee's failure to procure and maintain the insurance provided herein, shall constitute a Default that materially jeopardizes the County's security under this Easement Agreement.

By the date of execution of this Easement, the Grantee shall procure and maintain for the duration of this Easement, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with exercise of the rights and privileges granted by this Easement, by the Grantee, his agents, representatives, employees/subcontractors. The cost of such insurance shall be paid by the Grantee.

For all coverages: Each insurance policy shall be written on an "Occurrence" form.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

General Liability: Insurance Services Office Form No. CG 00 01 Ed. 11-88, covering COMMERCIAL GENERAL LIABILITY.

B. Minimum Limits of Insurance

The Grantee shall maintain limits for General Liability no less than **\$1,000,000 per occurrence** and **\$2,000,000 aggregate** for bodily injury, personal injury, and property damage.

C. Deductibles and Self-insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by King County. The deductible and or self-insured retention of the policies shall not limit or apply to the Grantee's liability to the County and shall be the sole responsibility of the Grantee.

D. Other Insurance Provisions

The insurance policies required in this Easement are to contain or be endorsed to contain the following provisions:

General Liability Policy:

1. King County, its officers, officials, employees, and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Grantee in connection with this Easement.

2. To the extent of Grantee's negligence, the Grantee's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and agents. Any insurance and/or self-insurance maintained by the County, its officers, officials, employees, or agents shall not contribute with the Grantee's insurance or benefit the Grantee in any way.

3. The Grantee's insurance shall apply separately to each insured against whom a claim is made and or lawsuit is brought, except with respect to the limits of the insurer's liability.

4.

All Policies:

Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, until after forty-five (45) days prior notice - return receipt requested, has been given to the County.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a Bests' rating of no less than A:VIII, or if not rated with Bests' with minimum surpluses, the equivalent of Bests' surplus size VIII.

If at any time, of the foregoing policies shall be or become unsatisfactory to the County, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the County, the Grantee shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements for approval.

F. Verification of Coverage

Grantee shall furnish the County with certificate(s) of insurance and endorsement(s) required by this Easement. The certificate(s) and endorsement(s) for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on forms approved by the County and are to be received and approved by the County prior to the commencement of activities associated with the Easement. The County reserves the right to require complete certified copies of all required insurance policies at any time.

G. Insurance Review

In consideration of the duration of this Easement, the parties agree that the Insurance section herein, at the discretion of the County Risk Manager, may be reviewed and adjusted with each amendment and within ninety (90) days of the end of the first five (5) year period of the Easement and the end of each successive five (5) year period thereafter.

Any adjustments made as determined by the County Risk Manager, shall be in accordance with reasonably prudent risk management practices and insurance industry standards and shall be effective on the first day of each successive five (5) year period.

Adjustment, if any, in insurance premium(s) shall be the responsibility of the Grantee. Any failure by the County to exercise the right to review and adjust at any of the aforementioned timings shall not constitute a waiver of future review and adjustment timings.

14. PROPERTY INSURANCE FOR DESIGN AND CONSTRUCTION.

A. The Grantee will carry or will cause its Contractor to carry All Risk Builders Risk in an amount equal to the full insurable value of the construction contract for all improvements, structures, and buildings. The policy shall include King County as loss payee for its vested interest in the property. A certificate of insurance must be provided to King County. King County will not carry insurance on Grantee's property.

B. In the event of the total or partial destruction of the building, structures, or facilities currently on the Easement Area or under construction by the Grantee, the Grantee shall have the obligation to commence reconstruction of such facilities within such time frame as is required to maintain any nonconforming use status in compliance with applicable building and land use code requirements.

15. INSURANCE REQUIREMENTS during Design and Construction. By the date of execution of this Easement, the Grantee shall procure and maintain for the period of design and construction during this Easement, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with design and/or construction related activities by the Grantee, his agents, representatives, employees/subcontractors. The cost of such insurance shall be paid by the Grantee.

For all coverages: Each insurance policy shall be written on an "Occurrence" form.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. General Liability: Insurance Services Office Form No. CG 00 01 Ed. 11-88, covering COMMERCIAL GENERAL LIABILITY.

2. Professional Liability:

Professional Liability, Errors and Omissions coverage. In the event that services delivered pursuant to this Contract either directly or indirectly involve or require professional services, Professional Liability, Errors and Omissions coverage shall be provided. "Professional Services", for the purpose of this Contract section shall mean any services provided by a licensed professional.

3. Automobile Liability:

Insurance Services Office form number (CA 00 01 Ed. 12-90) covering BUSINESS AUTO COVERAGE, symbol 1 "any auto"; or the combination of symbols 2, 8, and 9.

If "pollutants" as excluded under the Standard Commercial Auto policy are to be transported, endorsements CA 9948 and MCS-90 are required.

4. Workers' Compensation:

Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington.

5. Employers Liability or "Stop-Gap":

The protection provided by the Workers Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the General Liability policy.

B. Minimum Limits of Insurance

The Grantee shall maintain limits for, no less than:

1. General Liability: \$5,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$5,000,000 aggregate limit, provided that such insurance may be either in primary insurance or through an excess liability or umbrella policy.
2. Professional Liability, Errors and Omissions: \$1,000,000
3. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
4. Workers' Compensation: Statutory requirements of the State of residency.
5. Employers' Liability or "Stop Gap" coverage: \$1,000,000

C. Deductibles and Self-insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by King County. The deductible and or self-insured retention of the policies shall not limit or apply to the Grantee's liability to the County and shall be the sole responsibility of the Grantee.

D. Other Insurance Provisions

The insurance policies required in this Easement are to contain or be endorsed to contain the following provisions:

General Liability Policy:

1. King County, its officers, officials, employees, and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Grantee in connection with this

Easement.

2. The Grantee's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and agents. Any insurance and/or self-insurance maintained by the County, its officers, officials, employees, or agents shall not contribute with the Grantee's insurance or benefit the Grantee in any way.
3. The Grantee's insurance shall apply separately to each insured against whom a claim is made and or lawsuit is brought, except with respect to the limits of the insurer's liability.

All Policies:

Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, until after forty-five (45) days prior notice - return receipt requested, has been given to the County.

E. Acceptability of Insurers

Insurance is to be placed with insurers with a Bests' rating of no less than A:VIII, or if not rated with Bests' with minimum surpluses, the equivalent of Bests' surplus size VIII.

If at any time, of the foregoing policies shall fail to meet the above stated requirements the Grantee shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements for approval.

F. Verification of Coverage

Grantee shall furnish the County with certificate(s) of insurance and endorsement(s) required by this Easement. The certificate(s) and endorsement(s) for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be received and approved by the County prior to the commencement of activities associated with the Easement. The County reserves the right to require complete certified copies of all required insurance policies at any time. Failure to provide verification of coverage in accordance with this subsection, and subject to the notice and cure provisions set forth below, shall be deemed a default that materially jeopardizes the County's security.

G. Factory Mutual Engineering Plan Review

It shall be the responsibility of the Grantee to obtain Factory Mutual Engineering review and acceptance of all elements of the building design and construction,

including but not limited to: seismic and wind loading, roofing and HVAC systems, fire protection and alarm systems, and boiler systems (if any). Plans should be submitted for review at the 60% and 90% design phase.

Upon completion of the fire protection system installations, one copy of the Contractor's Materials and Test Certificate shall be forwarded to Factory Mutual's District Office for their records.

Factory Mutual Engineering Association
Seattle District Office
10900 N.E. 4th Street, Suite 700
Bellevue, Washington 98004
Telephone: (206) 454-3931

16. MUTUAL RELEASE AND WAIVER. To the extent a loss is covered by insurance in force, King County and Grantee hereby mutually release each other from liability and waive all right of recovery against each other for any loss from perils insured against under their respective fire insurance policies, including any extended coverage endorsements hereto; provided that this Agreement shall be inapplicable if it would have the effect of invalidating any insurance coverage of King County or the Grantee.
17. RELEASE OF EASEMENT. At the expiration or earlier termination of this Easement, Grantee agrees to record a release in the form of a written deed acceptable to King County causing the Easement interest to revert to King County, its successor or assignee.
18. DEFAULT AND RE-ENTRY.
- A. Monetary Default. If a monetary event of default occurs under the terms of this Easement, prior to exercising any remedies hereunder, the County shall give Grantee and its limited partner, at the addresses specified in paragraph 12 above, simultaneous written notice of such default. Grantees shall have a period of twenty (20) days after such notice is given within which to cure the default prior to exercise of remedies by the County, which remedies may include cancellation of this Easement upon thirty (30) days written notice.
- B. Non Monetary Default. If a non-monetary event of default occurs under the terms of this Easement, prior to exercising any remedies hereunder, the County shall give Grantee and its limited partner, at the addresses specified in paragraph 12 above, simultaneous written notice of such default. If the default is reasonably capable of being cured within thirty (30) days, Grantee shall have such period to effect a cure prior to exercise of remedies by the County. If the default is such that it is not reasonably capable of being cured within thirty (30) days or such longer period if so specified, and if Grantee (a) initiates corrective action within said period, and (b) diligently, continually, and in good faith works to effect a cure as soon as possible, then Grantee shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by the

County. If Grantee fails to take corrective action or to cure the default within a reasonable time, the County shall give Grantee and its limited partner written notice thereof, whereupon the limited partner may remove and replace the general partner of Grantee with a substitute limited partner approved by the County, such approval not to be unreasonably withheld, who shall effect a cure within a reasonable time thereafter in accordance with the foregoing provisions. If Grantee fails to cure the default within the cure periods set forth herein, the County may exercise any and all remedies it deems appropriate including, without limitation, cancellation of this Easement upon ninety (90) days written notice. Nothing in this section is intended to preclude the County from exercising any remedies it deems appropriate if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within one hundred eighty (180) days after the first notice of default is given.

19. ADVANCES BY KING COUNTY FOR GRANTEE. If Grantee fails to pay any fees or perform any of its obligations under this Easement, King County will mail notice to Grantee of its failure to pay or perform. Twenty (20) days after mailing notice, if Grantee's obligation remains unpaid or unperformed, King County may pay or perform these obligations at Grantee's expense. Upon written notification to Grantee of any costs incurred by King County under this paragraph, Grantee will reimburse King County within twenty (20) days.
20. NON-WAIVER. It is hereby agreed that no waiver of any condition or covenant in this Easement or any breach thereof, shall be taken to constitute waiver of any subsequent breach.
21. SIGNS. No sign, advertisement, notice, or other lettering will be exhibited, inscribed, painted, or affixed by Grantee on any part of the outside of the Easement Area without the prior written consent of King County. If Grantee violates this provision, King County may remove the sign without any liability and may charge the expense incurred by such removal to the Grantee provided, however, King County shall give Grantee written notice of Grantee's violation of this provision, and Grantee shall have forty-eight (48) hours after receiving said notice to comply with the terms of this provision. All signs erected or installed by Grantee shall be subject to any federal, state or local statutes, ordinances or regulations applicable to signs.
22. INSPECTIONS. Subject to the rights of Grantee under this Easement, King County reserves the right to inspect the Easement Area and any improvements thereon at any and all reasonable times throughout the term of this Easement, provided that King County shall not interfere unduly with Grantee's operations. The right of inspection reserved to King County hereunder shall impose no obligation on King County to make inspections to ascertain the condition of the improvements, and shall impose no liability upon King County for failure to make such inspections.
23. LIENS. Except as otherwise expressly provided herein, it is understood and agreed that this Easement is executed and delivered upon the express condition that the Grantee will not and cannot contract any debt or debts for labor, materials, services, or otherwise

which will or may become a lien against the interest of King County in the Easement Area, and King County hereby denies to Grantee any right, power, or authority to do any act, or contract any obligation or liability that would in any way subject the interest of King County in the Easement Area to any lien, claim, or demand whatsoever.

The County expressly acknowledges that Grantee's development of the Easement Area may require the recording of utility easements and other customary easements necessary and incidental to the development, construction and operation of the Project. The County hereby agrees to the recording of such easements, at the sole expense of Grantee, and shall provide such written consents as are necessary to the recording of such easements, provided that such easements are in locations within the Easement Area reasonably satisfactory to the County, do not unduly burden any property of the County other than the Easement Area and are authorized pursuant to procedures set forth in King County Code section 4.56.115.

The County expressly acknowledges Grantee will be obtaining financing for the development and operation of the Project from a variety of private and governmental funding sources and that such financing may require restrictive covenants or regulatory agreements ("Covenants") which restrict the use of the Project to residential rental housing for low-income households, to be recorded against Grantee's interest in the Easement Area. The County hereby agrees to the recording, at Grantee's sole expense, of such Covenants and shall provide such written consents as are necessary for recording of such Covenants provided that such covenants will, at County's option, terminate upon termination of this Easement. The sole exception to Grantee's above stated duty shall be the Regulatory Use (Extended Use) Agreement required under Section 42 of the Internal Revenue Code (the "Exception"), which will survive any termination of the Easement, except by foreclosure, and attach to the County's interest in the Easement Area during the initial forty years following occupancy of Phase I of the Project.

24. ASSIGNMENT OR TRANSFER.

A Except as otherwise permitted in this Easement, Grantee shall not assign any portion of its rights or responsibilities under this Easement or without the prior written consent of the County.

B. The County agrees and acknowledges that the assignment, transfer or granting of sub-easement rights to or under this Easement, or any portion thereof, from Grantee to the Young Women's Christian Association of King and Snohomish County, or any affiliate thereof, is permitted hereunder and shall require no further consent from the County.

C. The County agrees and acknowledges that the withdrawal (not including a voluntary withdrawal allowed by the limited partnership agreement of Grantee, or a voluntary withdrawal with the consent of the limited partner of Grantee), or removal of the general partner of Grantee for cause pursuant to the terms of the Grantee's limited partnership agreement shall not constitute a default hereunder provided that the substitute general partner is acceptable to the County and admitted to the Grantee within ninety (90)

days thereafter.

D. The County agrees and acknowledges that the sale, transfer, assignment or exchange of all or a portion of any limited partner's interest in Grantee shall not be deemed an assignment or transfer hereunder and shall not require the County's consent.

E. The County agrees and acknowledges that the leasing of residential units in the buildings constructed and/or rehabilitated within the Easement area shall not be deemed an assignment or transfer hereunder and shall not require the County's consent.

F. If Grantee desires to assign or transfer any portion of this Easement or any interest therein which assignment or transfer is not specifically permitted under sections B, C, D and E above, Grantee shall notify King County in writing of said desire to assign or transfer and the details of the proposed agreement at least sixty (60) days prior to the proposed date of assignment, transfer, or sublease to a third party. The notification shall include but not be limited to a financial statement of the proposed assignee, including but not limited to a full disclosure of the monetary payment or any other considerations involved, and an affidavit from the proposed assignee stating it has examined this Easement, understanding this Easement, agrees to assume and be bound by all of the Grantee's obligations and covenants under this Easement, the same as if it were the original Grantee hereunder, and the proposed date of assignment, transfer or sublease.

G. Except for those transfers or assignments specifically permitted under sections B, C, D and E above, King County reserves the right of opportunity to withhold its' approval in the event Grantee attempts to assign or transfer any portion of the above mentioned parcel to any party independent of itself unless the new assignment is necessary for purposes of financing.

H. King County will review the request and respond with either an approval or disapproval of the request not later than twenty (20) business days prior to the proposed date. Disapproval of any such request shall be final and binding on the Grantee and not subject to challenge or arbitration. King County shall charge to the Grantee a reasonable fee for administrative costs in reviewing and processing any assignment or sublease.

25. CONDEMNATION.

A. King County and Grantee will immediately notify the other in writing of the receipt of notice of any proceedings with respect to a condemnation or intent of any authority to exercise the power of eminent domain.

B. If all of the Easement Area are taken by any lawful authority under the power of eminent domain for a period which will end on or extend beyond the expiration of the term of this Easement, this Easement terminates as of the date condemner takes Grantee's easement interest, and Grantee will have no claim or interest in or to any award of just compensation except that the Grantee will be entitled to an amount equal to the fair market value of the Grantee's Easement interest in any improvement taken by the

condemner made to the Easement Area by the Grantee, but not to exceed the amount of that part, if any, of the award attributable to the value of the improvements.

C. If part of the Easement Area is taken by any lawful authority under the power of eminent domain for a period which will end on or extend beyond the expiration of the term of this Easement, Grantee may choose to terminate this Easement as of the date the condemner takes Grantee's interest in the Easement. Grantee will have no claim or interest in or to any award of just compensation or damages except that the Grantee will be entitled to an amount equal to the fair market value of the Grantee's Easement interest in the part taken by the condemner of any improvements made to the Easement Area by the Grantee, but not to exceed the amount of that part, if any, of the award attributable to the value of the improvements.

D. If temporary use of all or a portion of the Easement Area is taken by any lawful authority for a period which would reduce the Easement and, consequently, would render the Use of the Easement impossible by Grantee for the purposes set forth in Section 6 of this Easement then, at Grantee's determination, Grantee may choose to terminate this Easement. If Grantee elects to terminate the Easement, the Easement will terminate the date the condemner takes possession and Grantee will have no claim or interest in or to any award of just compensation except that the Grantee will be entitled to an amount equal to the fair market value of the Grantee's Easement interest in any improvements made to the Easement Area by the Grantee. If Grantee elects not to terminate this Easement, the Easement will continue in full force.

E. It is understood and agreed that Grantee shall not be party to any negotiation or proceedings at law wherein King County claims compensation other than that which is defined statutorily as constituting "just compensation."

26. ANTI-DISCRIMINATION. In all services or activities and all hiring or employment made possible by or resulting from this Easement, there shall be no discrimination against any employee or applicant for employment because of sex, age (except minimum age and retirement provisions), race, color, creed, religion, national origin, marital status, sexual orientation, or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification. This requirement shall apply to but not be limited to the following: Employment, advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Grantee shall not violate any of the terms of R.C.W. 49.60, Title VII of the Civil Rights Act of 1964, King County Code 12.16.020, or any other applicable federal, state, or local law or regulations regarding non-discrimination. Any violation of this provision shall be considered a violation of a material provision of this Easement and shall be grounds for cancellation, termination, or suspension, in whole or in part of the Easement by the County, and may result in ineligibility for further County agreements. The Grantee will also comply with other anti-discrimination laws or requirements of any and all jurisdictions having authority.

27. HEIRS, AGENTS, AND ASSIGNS. Without limiting any provisions of this Easement

pertaining to assignment and subletting, the provisions of this Easement bind the heirs, successors, agents and assigns of any of the parties to this Easement.

28. CAPTIONS. The captions in this Easement are for convenience only and do not in any way limit or amplify the provisions of this Easement.
29. TIME IS OF THE ESSENCE. Time is of the essence of this Easement, and in the event of the failure of Grantee to pay any charges at the time in the manner herein specified, or to keep any of the covenants or agreements herein set forth, the Grantee shall be in default.
30. CUMULATIVE REMEDIES. No provision of this Easement precludes King County from pursuing any other remedies for Grantee's failure to perform his obligations.
31. ATTORNEY'S FEES/COLLECTION CHARGES. In the event legal action is brought by either party to enforce any of the terms, conditions, or provisions of this Easement, the prevailing party shall recover against the other party in addition to the costs allowed by law, such sum as the court may adjudge to be a reasonable attorney's fee. In addition to all other charges, Grantee shall pay a charge of \$150.00 to King County for preparation of a demand for delinquent payment or a notice of default.
32. HAZARDOUS MATERIALS AND ENVIRONMENTAL COMPLIANCE.
- A. Definition. "Hazardous Materials" as used herein shall mean:
1. Any toxic substances or waste, sewage, petroleum products, radioactive substances, medical, heavy metals, corrosive, noxious, acidic, bacteriological or disease-producing substances; or
 2. Any dangerous waste or hazardous waste as defined in:
 - a. Washington Hazardous Waste Management Act as now existing or hereafter amended (RCW Ch. 70.105); or
 - b. Resource Conservation and Recovery Act as now existing or hereafter amended (42 U.S.C. Sec. 6901 et seq.); or
 3. Any hazardous substance as defined in:
 - a. Comprehensive Environmental Response, Compensation and Liability Act of 1980 as now existing or hereafter amended (42 U.S.C. Sec. 9601 et seq.); or
 - b. Washington Model Toxics Control Act as now existing or hereafter

amended (RCW Ch. 70.105D); or

4. Any pollutants, contaminants, or substances posing a danger or threat to public health, safety or welfare, or the environment, which are regulated or controlled as such by any applicable federal, state or local laws, ordinances or regulations as now existing or hereafter amended.
- B. Grantee shall not without first obtaining King County's prior written approval, use, generate, release, handle, spill, store, treat, deposit, transport, or dispose of any Hazardous Materials in, on, or about the Easement Area, or transport any Hazardous Material to or from the Easement Area. In the event, and only in the event, King County approves any of the foregoing, Grantee agrees that such activity shall occur safely and in compliance with all applicable federal, state, and local laws, ordinances and regulations.
- C. Environmental Compliance.
1. Grantee shall, at Grantee's own expense, comply with all federal, state and local laws, ordinances and regulations now or hereafter affecting the Easement Area, Grantee's business, or any activity or condition on or about the Easement Area, including, without limitation, all laws, ordinances and regulations related to Hazardous Materials and all other environmental laws, ordinances and regulations, and any other laws relating to the improvements on the Easement Area, soil and groundwater, storm water discharges, or the air in and around the Easement Area, as well as such rules as may be formulated by King County ("the Laws"). Grantee warrants that its business and all activities to be conducted or performed in, on, or about the Easement Area shall comply with all of the Laws. Grantee agrees to change, reduce, or stop any non-complying activity, or install necessary equipment, safety devices, pollution control systems, or other installations may be necessary at any time during the Easement to comply with the Laws.
 2. Grantee shall not cause or permit to occur any violation of the Laws on, under, or about the Easement Area, or arising from Grantee's use or occupancy of the Easement Area, including, but not limited to, soil and ground water conditions.
 3. Grantee shall promptly provide all information regarding any activity of Grantee related to Hazardous Materials on or about the Easement Area that is requested by King County. If Grantee fails to fulfill any duty imposed under this paragraph within a reasonable time, King County may do so; and in such case, Grantee shall cooperate with King County in order to prepare all documents King County deems necessary or appropriate to determine the applicability of the Laws to the Easement Area and Grantee's use thereof, and for compliance therewith, and Grantee shall

execute all documents promptly upon King County's request. No such action by King County and no attempt made by King County to mitigate damages shall constitute a waiver of any of Grantee's obligations under this paragraph.

4. Grantee shall, at Grantee's own expense, make all submissions to, provide all information required by, and comply with all requirements of all governmental authorities ("the Authorities") under the Laws.
5. Should any Authority demand that a cleanup plan be prepared and that a cleanup be undertaken because of any deposit, spill, discharge or other release of Hazardous Materials that occurs during the term of this Easement at or from the Easement Area, or which arises at any time from Grantee's use of occupancy of the Easement Area, then Grantee shall, at Grantee's own expense, prepare and submit the required plans and all related bonds and other financial assurances; and Grantee shall carry out all such cleanup plans. Any such plans and cleanup are subject to King County's prior written approval.

D. Indemnification. Except as otherwise provided in Section 10 above

1. Grantee shall be fully and completely liable to King County for any and all cleanup costs, and any and all other charges, fees, penalties (civil and criminal) imposed by any Authority with respect to Grantee's use, disposal, transportation, generation, release, handling, spillage, storage, treatment, deposit and/or sale of Hazardous Materials in or about the Easement Area, common area, or buildings. Grantee shall indemnify, defend, and save King County harmless from any and all of the costs, fees, penalties, and charges assessed against or imposed upon King County (as well as King County's attorney's fees and costs) by any Authority as a result of Grantee's use, disposal, transportation, generation, release, handling, spillage, storage, treatment, deposit and/or sale of Hazardous Materials, or from Grantee's failure to provide all information, make all submissions, and take all steps required by all Authorities under the Laws.
2. Grantee shall indemnify and hold King County harmless from any and all claims, liabilities, lawsuits, damages, and expenses, including reasonable attorney's fees, for bodily injury or death, property damage, loss, or costs caused by or arising from the use, disposal, transportation, generation, release, handling, spillage, storage, treatment, deposit and/or sale of Hazardous Materials by Grantee or any of its agents, representatives or employees in, on, or about the Easement Area occurring during the term of the this Easement.

E. Reporting Requirements. Grantee shall comply with the Laws requiring the submission, reporting, or filing of information concerning Hazardous Materials

with the Authorities, and shall provide to King County a full copy of any such filing or report as submitted within 15 days of such submission.

- F. Right to Check on Grantee's Environmental Compliance. King County expressly reserves the right, and Grantee shall fully cooperate in allowing, from time to time, such examinations, tests, inspections, and reviews of the Easement Area as King County, in its sole and absolute discretion, shall determine to be advisable in order to evaluate any potential environmental problems.
- G. Remedies. Upon Grantee's default under this Section 30 HAZARDOUS MATERIALS AND ENVIRONMENTAL COMPLIANCE, King County shall be entitled to the following rights and remedies in addition to any other rights and remedies that may be available to the County:
1. At King County's option, to terminate this Easement immediately; and/or,
 2. At King County's option, to perform such response, remediation and/or cleanup as is required to bring the Easement Area and any other areas of King County property affected by Grantee's default into compliance with the Laws and to recover from Grantee all of the County's costs in connection therewith; and/or
 3. To recover from Grantee any and all damages associated with the default, including but not limited to, response, remediation and cleanup costs and charges, civil and criminal penalties and fees, adverse impacts on marketing the Easement Area or any other adjacent areas of King County property, loss of business and sales by King County and other King County Grantees, diminution of value of the Easement Area and/or other adjacent areas owned by King County, the loss of or restriction of useful space in the Easement Area and/or other adjacent areas owned by King County, any and all damages and claims asserted by third parties, and King County's attorney's fees and costs.
- H. Remediation on Termination of Easement. Upon the expiration or earlier termination of this Easement, Grantee shall remove, remediate or clean up any Hazardous Materials on, or emanating from, the Easement Area, resulting from Grantee's use, Grantee shall undertake whatever other action may be necessary to bring the Easement Area into full compliance with the Laws ("Termination Cleanup"). The process for such Termination Cleanup is subject to King County's prior written approval. If Grantee fails or refuses to commence the Termination Cleanup process, or fails to reasonably proceed toward completion of such process, King County may elect to perform such Termination Cleanup after providing Grantee with written notice of the County's intent to commence Termination Cleanup, and after providing Grantee a reasonable opportunity, which shall be not less than ninety (90) days after such notice (unless King County is given notice by a government agency with jurisdiction over such matter

that Termination Cleanup must commence within a shorter time, in which case King County shall give Grantee notice of such shorter time), to commence or resume the Termination Cleanup process. If King County performs such Termination Cleanup after said notice and Grantee's failure to perform same, Grantee shall pay all of King County's costs.

- I. Survival. Grantee's obligations and liabilities under this Section 30, HAZARDOUS MATERIALS AND ENVIRONMENTAL COMPLIANCE, shall survive the expiration of this Easement.
 - J. Nothing in this Section is intended to affect County obligations relating to landfill-related Hazardous Materials set forth in Section 10 of this Easement.
33. SEVERABILITY. If any term or provision of this Easement or the application of any term or provision to any person or circumstance is invalid or unenforceable, the remainder of this Easement, or the application of the term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected and will continue in full force; provided that this provision shall not apply if the invalidity or unenforceability determination is made by a court of law and frustrates a fundamental purpose of this Easement.

END OF GENERAL TERMS AND CONDITIONS

SPECIAL TERMS AND CONDITIONS

Terms and conditions applicable to the Easement granted by King County:

1. PERMIT REQUIRED. Before constructing any improvements or making any alterations to the site pursuant to this Easement, a Special Use Permit must be obtained from the King County Real Estate Services Section or successor agency ("Real Estate Services Section"). Before such County permit will be issued, if applicable, complete plans and specifications of the proposed project, including details of landscaping if any, must be submitted. Construction or alterations shall comply with any and all other provisions as more specifically set forth in the permit application.
2. NO CONFLICT WITH SOLID WASTE LANDFILL OPERATIONS. The construction, operation, maintenance and repair of the Passage Point facilities shall not conflict with the operation, parking, maintenance, closure, monitoring and access to the adjacent Solid Waste landfill other facility ("Solid Waste Facility") operated by the King County Solid Waste Division or its successor agency. Prior to undertaking construction or engaging in use of the Passage Point facility, the Grantee shall obtain Solid Waste Division approval of plans and schedules to avoid such conflicts and shall thereafter obtain Solid Waste Division approval of any changes to such plans and schedules.
3. EMERGENCY SITUATIONS. In the event of an emergency involving Grantee's facilities within this Easement, the Grantee will take immediate steps to perform any necessary repairs. If the Grantee fails to perform any necessary repairs, the Grantor may do all work necessary at the sole cost and expense of Grantee.
4. DAMAGES. If any damage is caused by reason of performing any act authorized by this Easement, Grantee will promptly pay the damaged party the amount necessary to put the damaged party in the position he would have been in had the damage not occurred.
5. ASSESSMENTS. Grantor and its property shall not be subjected to any charge, assessment, or expense resulting from Grantee's use of this Easement.
6. ABANDONMENT. In the event that Grantee permanently abandons or discontinues the use of the Easement for the purposes expressed in this document, the Grantee's Easement will terminate.
7. TERMINATION. Upon expiration of the Easement or in the event that the Easement is otherwise terminated for any reason, Grantee agrees to record a release in the form of a written deed acceptable to King County causing the Easement interest to revert to King County, its successor or assignee free of any and all claims of the Grantee.
8. USE RESTRICTIONS. Grantee may be required to temporarily limit operation or curtail use of the site if the Department of Health provides of advance written notice to the Grantee that County use of the Easement Area is necessary to facilitate construction, renovation,

repair or other needed improvements to the Solid Waste facility, provided however, that to the extent any such limitation or use of site results in a temporary or permanent termination of the use of the Project, the County shall indemnify and hold harmless, Grantee, the YWCA and their successors and assigns from any and all losses, claims, demands or liabilities arising from such termination, including any liabilities under any loans and other financing obligations relating to the development or operation of the Project to the extent such obligations are either approved by the King County Department of Community and Human Services or Grantor, as well as any tenant relocation claims arising from the termination of the operation of the Project.

9. MAINTENANCE OF FACILITY. Grantee shall maintain and repair the Easement Area and any improvements thereon in a neat, clean and safe condition and otherwise suitable for its intended use.
10. NO OPPOSITION. Grantee and the YWCA acknowledge possible expansion and continued operation of the landfill site into the future. To the extent such expansion does not materially interfere with Grantee's ability to carry out Project operations, Grantee and the YWCA agree not to oppose any such modifications or expansions.
11. RIGHT OF ENTRY. Grantor, its officers, employees and agents may enter the Easement Area and any improvements thereon for purposes of implementing the terms of this Easement. Except in emergencies, Grantor shall provide Grantee with reasonable prior notice of entry, which notice may be given orally. Grantor, its officers, employees and agents may further enter the portions of the Easement Area and any improvements thereon that are open to the public at any time that such areas are open.
12. OTHER APPLICABLE LAWS. Grantee will comply with all federal, state, and local laws, and will assume all cost, expense, and responsibility in connection with compliance, without any liability on the part of the Grantor.
13. MISCELLANEOUS.

132.1. This Easement shall be interpreted, construed and enforced in all respects in accordance with the laws of the State of Washington. Jurisdiction and venue for any action related to this Easement shall be in the Superior Court of King County.

13.2. This Easement shall not be interpreted or construed to create an association, joint venture or partnership between the parties or to impose any partnership obligations or liability upon either party. Neither party shall have any right, power or authority to enter into any agreement or undertaking for or on behalf of, to act as or be an agent or representative of, or to otherwise bind the other party.

13.3. The failure of either party to insist upon or enforce strict performance by the other party of any of the provisions of this Easement or to exercise any rights or remedies under this Easement shall not be construed as a waiver or relinquishment to any extent of such party's right to assert or rely upon any such provisions or rights in that or any other

instance; rather, the same shall be and remain in full force and effect.

13.4. This Easement sets forth the entire agreement of the parties. This Easement shall be construed as a whole. All provisions of this Easement are intended to be correlative and complementary.

13.5. No amendment, change or modification of any provision of this Agreement shall be valid unless set forth in a written amendment to this Agreement signed by both parties.

Exhibit A
Legal Description
Easement area

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 23 NORTH, RANGE 6 EAST, W.M., AND THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 23 NORTH, RANGE 6 EAST, W.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 21, SAID POINT BEING THE POINT OF BEGINNING; THENCE NORTH 01°32'37" EAST ALONG THE EAST LINE OF SAID SECTION 21, A DISTANCE OF 962.90 FEET; THENCE NORTH 89°09'54" WEST, A DISTANCE OF 614.45 FEET; THENCE SOUTH 01°50'16" EAST, A DISTANCE OF 959.99 FEET TO THE SOUTH LINE OF SAID SECTION 21; THENCE CONTINUE SOUTHERLY ALONG SAID LINE, A DISTANCE OF 916.33 FEET; THENCE SOUTH 87°57'45" EAST, A DISTANCE OF 501.66 FEET TO THE EAST LINE OF SAID SECTION 28; THENCE NORTH 01°40'25" EAST ALONG THE EAST LINE OF SAID SECTION 28, A DISTANCE OF 922.07 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 1,049,628 SQUARE FEET OR 24.10 ACRES, MORE OR LESS.

**BILL OF SALE
AND
RELEASE OF LIABILITY**

THIS BILL OF SALE is made as of this ____ day of _____, 200__, by KING COUNTY ("Seller"), in favor of _____ ("Buyer") (collectively referred to as "the Parties"), subject to the following.

Buyer intends to construct and operate facilities for low income housing support services on the real property owned by Seller and described in **EXHIBIT A**, which will be comprised of an easement granted to Buyer from Seller, as provided for in that certain agreement attached as **EXHIBIT B**. In order to facilitate the aforementioned provision of low income housing support services, it is necessary to sever all fixtures from the real property and convey them to Buyer separate from the underlying fee interest of Seller.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Seller does hereby absolutely and unconditionally give, grant, bargain, sell, transfer, set over, assign, convey, release, confirm and deliver to Buyer all of Seller's right, title and interest in and to any and all improvements, buildings, operating systems, heating, cooling or other mechanical systems, sanitary sewer systems, water systems, equipment, furniture, furnishings, fixtures and other tangible personal property (hereinafter "Severed Fixtures"), excluding testing, monitoring and maintenance equipment and fixtures specifically related to the operation and maintenance of the Cedar Hills Landfill Facility, owned by Seller that is attached, appurtenant to or used in connection with the real property legally described on the attached **EXHIBIT A**.

It is the intent of the Parties that said Severed Fixtures be severed from the real property upon which they are located, attached to, and appurtenant to and be sold separately and apart from the fee simple interest of the property described in attached **EXHIBIT A**, which fee simple interest shall remain with Seller.

Seller represents and warrants that it is the sole owner of, and has good title to, such personal property, and has full right and authority to transfer and deliver the same, and will defend the sale hereby against each and every person claiming otherwise.

Buyer releases Seller from all liability with respect to the Severed Fixtures, including but not limited to the environmental aspects and physical condition of the Severed Fixtures, its valuation, and suitability for Buyer's business purposes other than those directly resulting from Seller lacking title to the Severed Fixtures. Buyer acknowledges: (i) that in purchasing the Severed Fixtures, Buyer has been given the opportunity to investigate and study the Severed Fixtures, including, without limitation, the opportunity to conduct its own physical and environmental inspections of the Severed Fixtures, and that Buyer is not relying on any representation or warranty of Seller regarding the physical or environmental condition of the Severed Fixtures; and (ii) Buyer will acquire the Severed Fixtures in "as is", "where is"

condition and shall assume the risks that adverse physical conditions may not have been revealed by its investigation, and Seller specifically disclaims making any representation or warranty respecting the physical condition of the Severed Fixtures, including, but not limited to, warranties of fitness, merchantability, fitness for a particular purpose, habitability or tenantability.

Buyer hereby fully releases Seller and its employees, managers, and elected officials, from all claims, demands and causes of any action, known or unknown, of whatever kind arising out of or related to the Severed Fixtures, other than those directly resulting from Seller lacking title to the Severed Fixtures.

IN WITNESS WHEREOF, Seller has executed this Bill of Sale as of the date first above written.

SELLER:

By: _____

Its: _____

BUYER:

By: _____

Its: _____

Approved as to Form:

By: _____

Attorney for Buyer

And By: _____

Senior Deputy Prosecuting Attorney

Exhibit A

Legal Description

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 23 NORTH, RANGE 6 EAST, W.M., AND THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 23 NORTH, RANGE 6 EAST, W.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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