

## REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT ("Agreement") is made and entered into as of May 10, 2010, by and between **KING COUNTY**, a municipal corporation and political subdivision of the State of Washington (the "County") and **Segale Properties LLC**, a Washington limited liability company ("Segale Properties"). For purposes of this Agreement, the County and Segale Properties shall be referred to collectively as the "Party" or "Parties."

### RECITALS

- A. King County's Solid Waste Division is constructing a new Bow Lake Recycling and Transfer Station ("Transfer Station") located at 18800 Orillia Road South in Tukwila, Washington. The County wishes to secure a Permanent Easement for Sewer and Stormwater Drainage and a Temporary Construction Easement for the new Transfer Station across easterly adjacent property owned by Segale Properties. The drainage easement consists of approximately 16,424 square feet, the survey and legal description of which is attached hereto as **Exhibit A**. The Temporary Construction Easement consists of approximately 18,794 square feet, the survey and legal description of which is attached hereto as **Exhibit B**.
- B. Segale Properties is developing plans for the Tukwila South Project on property abutting the north and east boundaries of the Transfer Station. Segale Properties wishes to purchase the northernmost portions of two County parcels that were declared surplus to the needs of the County on March 2, 2009. The surplussed parcel portions are referred to as "the Ravine" (3.83 acres m/l) and "the Orphan" (1.44 acres m/l) (the "Surplus Property") consisting of approximately 5.27 acres, the survey and legal description of which is attached hereto as **Exhibit C**.
- C. Segale Properties acknowledges that the Surplus Property referenced in Recital B required a legal boundary line adjustment through the City of Tukwila and the City of SeaTac for the Surplus Property, a process completed and paid for by King County.
- D. Segale Properties is willing to grant to the County the Permanent Drainage Easement for Sewer and Stormwater Drainage and Temporary Construction Easement in exchange for fulfillment by the County of the following conditions:
  1. Sale to Segale Properties of the Surplus Property referenced in Recital B;
  2. Cooperate with Segale Properties and the cities of Tukwila and SeaTac to vacate those portions of the Orillia Road Extension lying within the Surplus Property;

3. Provide access by Special Use Permit for limited and specialized ingress and egress to the Surplus Property.
- E. The County is willing to perform the above conditions in exchange for fulfillment by Segale Properties of the following conditions:
1. Purchase by Segale Properties of the Surplus Property
  2. Grant to the County of the Permanent Easement for Sewer and Stormwater Drainage and the Temporary Construction agreement in the forms substantially the same as attached hereto as **Exhibit F** to this Agreement.

## AGREEMENT

**NOW, THEREFORE**, in consideration of the promises and mutual covenants contained herein, and other valuable consideration, receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

### ARTICLE 1. PURCHASE AND TRANSFER OF ASSETS

**1.1. PROPERTY TO BE SOLD.** Subject to and upon the terms and conditions set forth in this Agreement, the County shall sell, convey, assign, transfer and deliver to Segale Properties on the Closing Date (as hereinafter defined) and Segale Properties shall buy, assume and accept from the County on the Closing Date, all of the County's right, title and interest in and to the Surplus Property, as described in **Exhibit C**.

**1.2 EASEMENTS TO BE GRANTED.** Subject to and upon the terms and conditions set forth in this Agreement, Segale Properties shall grant to the County the Permanent Easement for Sewer and Stormwater Drainage and Temporary Construction Easement encumbering the parcels more particularly described in **Exhibit A** and **Exhibit B** (collectively, the "Easements"). Within ten (10) business days of the execution of this Agreement, Segale Properties shall deliver three (3) copies of each Easement, duly executed and acknowledged, into escrow with the Title Company (hereinafter defined). Upon delivery of executed and acknowledged counterpart of the Easements and the Easement Purchase Price (hereinafter defined) by the County into escrow, the Title Company shall record the Easements in favor of the County and release the Easement Purchase Price to Segale Properties.

### ARTICLE 2. PURCHASE PRICE

**2.1. PURCHASE PRICE AND PAYMENT.** In consideration of the sale, transfer, conveyance and delivery of the Surplus Property, Segale Properties shall, in full payment therefore, pay to the County on the Closing Date a total purchase price of Fifty-Two Thousand Three Hundred Dollars (\$52,300.00) (the "Purchase Price"). In addition, Segale Properties shall pay the cost of Five Hundred Dollars (\$500.00) for the Special Use Permit. The County shall, in

full payment for the Easements, pay to Segale Properties a total purchase price of Sixty-Four Thousand Two Hundred Fifty Dollars (\$64,250.00) ("Easement Purchase Price").

**2.2. ALLOCATION OF PURCHASE PRICE.** The County and Segale Properties agree that the respective Purchase Prices are allocable to real property and that the value of the personal property, if any, is *de minimis*.

### **ARTICLE 3. REPRESENTATIONS AND WARRANTIES OF THE PARTIES**

**3.1. WARRANTIES AND REPRESENTATIONS OF COUNTY.** The County represents and warrants as follows:

**3.1.1. DEFINITION OF SELLER.** The County is a charter county and a municipal corporation and subdivision of the State of Washington duly organized, validly existing and in good standing under the laws of the State of Washington. The County has all requisite corporate power and authority to carry on its business as it is now being conducted in the place where such businesses are now conducted.

**3.1.2. EXECUTION, DELIVERY AND PERFORMANCE OF AGREEMENT, AUTHORITY.** The execution, delivery and performance of this Agreement by the County (i) is within the powers of the County as a charter county and municipal corporation, (ii) has been or will be on or before the closing date, duly authorized by all necessary action of the County's legislative authority, and (iii) does not and will not violate any provision of any law, rule, regulation, order, writ, judgment, decree or award to which the County is a party or which is presently in effect and applicable to County. This Agreement constitutes the legal, valid and binding obligation of the County enforceable against the County in accordance with the terms thereof.

**3.1.3. LITIGATION.** There is no pending, or to the best of the County's knowledge, threatened lawsuit or material claim against or relating to the County with respect to the Surplus Property, which shall impede or materially affect the County's ability to perform the terms of this Agreement. There is no pending or, to the best of the County's knowledge, contemplated condemnation or similar proceeding with respect to the Surplus Property or any part thereof.

**3.1.4. ASSESSMENTS.** There is no pending, or to the best of the County's knowledge, contemplated local improvement district or other special assessment or charge, with respect to the Surplus Property, except as may be disclosed in the Title Commitment (hereinafter defined) described below.

**3.1.5. FULL DISCLOSURE.** No representation or warranty by the County in this Agreement or in any instrument, certificate or statement furnished to Segale Properties pursuant hereto, or in connection with the transactions contemplated hereby, contains or will contain any

untrue statement of a material fact or fails to state a material fact which is necessary to make the statements set forth therein not false or misleading.

**3.1.6. NO BROKER.** No broker, finder, agent or similar intermediary has acted for or on behalf of the County in connection with this Agreement or the transactions contemplated hereby, and no broker, finder, agent or similar intermediary is entitled to any broker's, finder's or similar fee or commission in connection with this Agreement based on an agreement, arrangement or understanding with Segale Properties or any action taken by Segale Properties.

**3.1.7. CONTRACTS.** There are no contracts or other obligations outstanding for the sale, exchange, transfer, lease, rental or use of the Surplus Property or any portion thereof.

**3.1.8. FUTURE AGREEMENTS.** From and after the date hereof unless this Agreement is terminated in accordance with its terms, the County shall not without the prior written consent of Segale Properties:

- (i) enter into any agreement, contract, commitment, lease or other transaction that affects the Surplus Property in any way; or
- (ii) sell, dispose of or encumber any portion of the Surplus Property;

**3.1.9. MAINTENANCE OF THE SURPLUS PROPERTY.** The County shall continue to maintain the Surplus Property in compliance with all applicable laws and pay all costs of the Surplus Property with respect to the period prior to Closing.

**3.1.10. CONDITION OF THE SURPLUS PROPERTY.** Except for the warranties, representations and indemnifications contained in this Agreement, the County does not make and specifically disclaims any warranties, express or implied, including any warranty of merchantability or fitness for a particular purpose, with respect to the Surplus Property, including, without limitation, any warranties or representations with respect to the structural condition of the Surplus Property, the area of land being purchased, the existence or non-existence of any Hazardous Substances or underground storage tanks, or the actual or threatened release, deposit, seepage, migration or escape of Hazardous Substances, from or into the Surplus Property, and the compliance or noncompliance of the Surplus Property with applicable federal, state, county and local laws and regulations, including, without limitation, environmental laws and regulations and seismic/building codes, laws and regulations. For purposes of this Agreement, the term Hazardous Substances shall mean: "hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"); "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 ("RCRA") as amended; hazardous wastes, hazardous materials, hazardous substances, toxic waste, toxic materials, or toxic substances as defined in state or federal statutes or regulations; asbestos-containing materials, polychlorinated biphenyls; radioactive materials, chemicals known to cause cancer or reproductive toxicity; petroleum products, distillates or fractions; any substance the presence of which is prohibited by statute or regulation; and any substance for

which any statute or regulation requires a permit or special handling in its use, collection, storage, treatment or disposal.

**3.1.11. RISK OF LOSS.** Until the Closing Date, the risk of loss relating to the Surplus Property shall rest with the County. Risk of Loss shall be deemed to include any property damage occurring as a result of an "Act of God," including, but not limited to, earthquakes, tremors, wind, rain or other natural occurrence.

**3.1.12. FOREIGN PERSON.** The County is not a foreign person and is a "United States Person" as such term is defined in Section 7701 (a) (30) of the Internal Revenue Code of 1986, as amended and shall deliver to Segale Properties prior to the Closing an affidavit, as set forth in **Exhibit D**, evidencing such fact, and such other documents as may be required under the Code.

**3.2. REPRESENTATIONS AND WARRANTIES OF SEGALE PROPERTIES.** Segale Properties represents and warrants as follows:

**3.2.1. ORGANIZATION.** Segale Properties is a Washington limited liability company duly organized, validly existing and in good standing under the laws of the State of Washington. Segale Properties has all requisite corporate power and authority to carry on its business as it is now being conducted in the place where such businesses are now conducted.

**3.2.2. EXECUTION, DELIVERY AND PERFORMANCE OF AGREEMENT, AUTHORITY.** The execution, delivery and performance of this Agreement by Segale Properties (i) is within the powers of Segale Properties as a limited liability company, (ii) has been or will be on or before the closing date, duly authorized by all necessary action of Segale Properties' legal authority, and (iii) does not and will not violate any provision of any law, rule, regulation, order, writ, judgment, decree or award to which the Segale Properties is a party or which is presently in effect and applicable to Segale Properties. This agreement constitutes the legal, valid and binding obligation of Segale Properties enforceable against Segale Properties in accordance with the terms hereof.

**3.2.3. LITIGATION.** There is no pending or, to the best of Segale Properties' knowledge, threatened lawsuit or material claim against or relating to Segale Properties that shall impede or materially affect Segale Properties' ability to perform the terms of this Agreement.

**3.2.4. FULL DISCLOSURE.** No representation or warranty by Segale Properties in this Agreement or in any instrument, document, certificate or statement furnished to the County pursuant hereto, or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact.

**3.2.5. CONDITION OF SURPLUS PROPERTY.** Segale Properties acknowledges that, within the Due Diligence Period, it will have conducted a physical inspection and made all investigations Segale Properties deems necessary in connection with its purchase of the Surplus Property. Upon waiver or satisfaction by Segale Properties of its contingencies pursuant to Article 5, Segale Properties will be deemed to have approved the physical condition of the

Surplus Property and agrees to accept and purchase the same “AS IS, WHERE IS”, including, without limitation, the existence or non-existence of any pollutants, contaminants, hazardous waste, dangerous waste, toxic waste, underground storage tanks or contaminated soil, or the actual or threatened release, deposit seepage, migration or escape of such substances at, from or into the Surplus Property and the compliance or noncompliance of the Surplus Property with applicable federal, state, county and local laws and regulations including, without limitation, environmental laws and regulations. Segale Properties acknowledges and agrees that, except to the extent of the County’s representations and warranties in Section 3.1 of this Agreement, and to the extent of any fraud or deliberate misrepresentation by County, Segale Properties shall have no recourse against the County for, any defect or deficiency of any kind whatsoever in the Surplus Property including without limitation those relating to Hazardous Substances, without regard to whether such defect or deficiency was discovered or discoverable by Segale Properties or the County.

**3.2.6. NO BROKER.** No broker, finder, agent or similar intermediary has acted for or on behalf of Segale Properties in connection with this Agreement or the transactions contemplated hereby, and no broker, finder, agent, or similar intermediary is entitled to any broker’s, finder’s or similar fee or commission in connection with this Agreement based on an agreement, arrangement, or understanding with Segale Properties or any action taken by Segale Properties.

#### **ARTICLE 4. TITLE MATTERS**

**4.1. TITLE.** The County shall deliver to Segale Properties good and marketable title, free and clear of all liens, defects and encumbrances except the Permitted Exceptions.

**4.1.1. TITLE COMMITMENT.** Segale Properties shall obtain a current ALTA form of commitment for an owner’s standard, or at Segale Properties’ election, extended policy of title insurance (the “Title Commitment”) issued by Pacific Northwest Title Company (the “Title Company”), describing the Surplus Property, listing Segale Properties as the prospective named insured and showing as the policy amount the Purchase Price for the Surplus Property. At such time as the Title Company causes the Title Commitment to be furnished to Segale Properties, the Title Company shall further cause to be furnished to Segale Properties legible copies of all instruments referred to in the Title Commitment as restrictions or exceptions to title to the Property.

**4.1.2. SURVEY.** Prior to the expiration of the Due Diligence Period (as defined in Section 5.2), Segale Properties shall have the option, at its expense, to have prepared and furnished to the Title Company and Segale Properties a survey (the “Survey”) of the Surplus Property prepared by a licensed public surveyor. The Survey shall be certified to Segale Properties and the Title Company, shall be satisfactory to the Title Company so as to permit it to issue an owner’s extended coverage title policy, identify the Surplus Property by legal description and shall set forth the number of square feet contained within the Surplus Property, show all natural monuments, existing fences, drainage ditches and/or courses, flood plain limits, any

building or other site improvements and/or objects, any rights-of-way for streets, existing driveways, alleys or highways, easements and other restriction lines existing and/or proposed which shall affect any portion of the Surplus Property, and such other items as required by Segale Properties.

**4.1.3. REVIEW OF TITLE COMMITMENT AND SURVEY.** Segale Properties shall have until fourteen (14) days after receipt of the Title Commitment (the "Review Period") in which to notify the County of any objections Segale Properties has to any matters shown or referred to in the Title Commitment or, if applicable, the Survey and of any title insurance endorsements required by Segale Properties. Any exceptions or other items that are set forth in the Title Commitment or the Survey and to which Segale Properties does not object within the Review Period shall be deemed to be permitted exceptions ("Permitted Exceptions"). With regard to items to which Segale Properties does object within the Review Period, the County shall notify Segale Properties within ten (10) days after the County receives Segale Properties' notice of objections of any exceptions to title or items on the Survey which the County is not able to remove or otherwise resolve and any endorsements that the County is not able to provide following Segale Properties' request within the Review Period, and Segale Properties may, at Segale Properties' option, either waive the objections not cured or terminate this Agreement by notice to the County. Notwithstanding the foregoing, all monetary liens or encumbrances shall be paid by the County at Closing.

**4.2. OWNER'S TITLE INSURANCE POLICY.** At the Closing, Segale Properties shall cause an owner's policy of title insurance to be issued by the Title Company in the full amount of the Purchase Price, effective as of the closing date, insuring Segale Properties that the fee simple title to the Surplus Property is vested in Segale Properties, subject only to the usual printed exceptions contained in such title insurance policy, to the matters approved by Segale Properties as provided herein, and to any other matters approved in writing by Segale Properties. The obligation of Segale Properties to provide the title policy called for herein shall be satisfied if, at the closing, the Title Company has given a binding commitment, in a form reasonably satisfactory to Segale Properties, to issue the policies in the form required by this section. Segale Properties shall pay any sum owing to the Title Company for the preparation of the preliminary and binding commitments generated by the Title Company.

**4.3. CONVEYANCE.** County shall convey to Segale Properties the title to the Surplus Property by Bargain and Sale Deed in the form attached hereto as **Exhibit E**, subject only to the Permitted Exceptions. Rights reserved in federal patents or state deeds, building or use restrictions general to the district, and building or zoning regulations or provisions shall be deemed Permitted Exceptions.

## **ARTICLE 5. CONTINGENCIES**

**5.1. DUE DILIGENCE INSPECTION AND FEASIBILITY.** Segale Properties shall satisfy itself by investigation and inspection, at its cost and expense in its sole and absolute discretion, that the condition of the Surplus Property for Segale Properties' contemplated use meets with its approval. If Segale Properties approves of the condition of the Surplus Property, Segale

Properties agrees to notify County, in writing, thereby removing the contingency. Segale Properties shall make such determination within sixty (60) days following the date of mutual execution of this Agreement ("Due Diligence Period"). In the event this contingency is not satisfied or waived within the Due Diligence Period, Segale Properties may terminate this Agreement upon written notice to County on or before the expiration of the Due Diligence Period, and neither Party shall have any further rights or obligations to the other hereunder.

**5.1.1. INSPECTIONS.** During the Due Diligence Period, Segale Properties, its designated representatives or agents shall have the right at Segale Properties' expense to (i) perform any and all tests, inspections, studies, surveys or appraisals of the Surplus Property deemed necessary, on any subject, by Segale Properties (subject to the limitations set forth below and Paragraph 5.1.2 Right of Entry) ; (ii) obtain a Phase I or Phase II Environmental Assessment on the Property and perform any and all tests, inspections and studies deemed necessary therewith; and (iii) examine all Due Diligence materials that Segale Properties may reasonably request from the County that are not subject to attorney-client privilege or that the County is not otherwise prohibited from disclosing by law; (IV) determine to its satisfaction whether approvals, permits and variances can be obtained under applicable land use and zoning codes for Segale Properties' proposed development of the Surplus Property, (V) determine whether Segale Properties' proposed development of the Surplus Property is economically feasible. The County shall make a reasonable, diligent search of its files and provide Segale Properties with copies of or access to any document, reports, tests, inspections, studies, surveys or appraisals concerning the Surplus Property that are not subject to attorney-client privilege or that the County is not otherwise prohibited from disclosing by law.

**5.1.2. RIGHT OF ENTRY.** Segale Properties and its designated representatives or agents shall have the right and the County hereby grants to Segale Properties and its designated representatives the right to enter the Surplus Property pursuant to a County permit and conduct the tests, investigations and studies set forth in this Article 5 upon one (1) days advance written or telephone notice; provided that such right of entry will be limited to those times and dates that will not disrupt the County's use of, or the County's operations and activities on the Surplus Property. Invasive tests of the Surplus Property, such as drilling or excavation shall be subject to the County's prior written approval. Segale Properties will not be permitted to undertake activities that damage the County's property. In connection with such inspections, Segale Properties agrees to hold harmless, indemnify and defend the County, its officers, agents and employees, from and against all claims, losses, or liability, for injuries, sickness or death of persons, including employees of Segale Properties caused by or arising out of any act, error or omission of Segale Properties, its officers, agents, contractors, subcontractors or employees in entering County's Surplus Property for the above purposes, to the extent not caused by or arising out of any act, error or omission of the County, its officers, agents and employees.

**5.1.3 SPECIAL USE PERMIT.** (a) The County will install a new roadway from the north terminus point of the existing Orillia Road S., continuing the new road northward to an area south of the Surplus Property, and continuing easterly and southerly in a circular pattern returning to the point of beginning. The County will develop the new Facility Roadway (the new "Facility Roadway") in compliance with City of Tukwila standards, and only as required to



service the new Bow Lake Transfer Station, as determined by King County. Installation of the new Facility Roadway will be solely for the purpose of moving public and operational daily traffic into and out of the Transfer Station during normal business hours as established by the County. (b) The County will grant a Special Use Permit to Segale Properties, in a form substantially the same as shown on **Exhibit H, with the access described in Exhibit I**, for limited and specialized ingress and egress access to the purchased Surplus Property identified in Exhibit C for purposes of surveys, studies, inspection and all other terms as stated in Article 5.1.2.

**5.1.4 FACILITY ROADWAY EASEMENT.** After securing all necessary permits and approvals for the development of those certain properties owned by Segale Properties located north of the Transfer Station, south of S. 178<sup>th</sup> Street, west of Southcenter Parkway and east of Interstate 5, including but not limited to any required federal, state or local environmental, traffic or intersection studies, it is understood by the Parties that Segale Properties may request an access easement, not to exceed 40 feet in width, along the west corridor of the Facility Roadway. Within ninety (90) days of receipt of written notice from Segale Properties of the easement request the County shall grant to Segale Properties a perpetual, nonexclusive easement for ingress, egress and utilities over, under, in, across and through the west corridor of the Facility Roadway for the benefit of those certain properties described above in this paragraph. The granting of this easement shall be conditioned on the Parties successful agreement on the cost of the easement, improvements to the Facilities Roadway and/or Transfer Station (including but limited to the retaining wall, roadway, fencing, gates, or utilities) to be made by Segale Properties, as well as the future maintenance responsibilities of the Parties. The parties expressly acknowledge that this obligation shall survive the closing of the transaction.

Upon request by Segale Properties, the County shall provide written acknowledgement that Segale Properties will be granted ingress and egress across said portion of the Facility Roadway subject to the satisfaction of the conditions set forth in this Section 5.1.4, and that such acknowledgement may be relied upon in the granting of any permits and approvals for the development of the properties described above. In addition, the County shall cooperate in good faith with Segale Properties in securing the necessary permits and approvals in connection herewith.

**5.1.5 DEDICATION OF THE FACILITY ROADWAY EASEMENT AS A PUBLIC RIGHT OF WAY.** The parties acknowledge that the County shall have no objection to the west corridor Facility Roadway becoming a public right of way, provided however, that such dedication would be subject to compliance with applicable laws, and provided further however, the County reaches a satisfactory agreement with the Cities of SeaTac and Tukwila, as applicable.

## **ARTICLE 6. COVENANTS OF COUNTY PENDING CLOSING**

**6.1 CONDUCT, NOTICE OF CHANGE.** The County covenants that between the date hereof and the Closing, the County shall take all such actions as may be necessary to assure that

the representations and warranties set forth in Article 3 hereof will be true and complete as of the Closing Date (except such representations, warranties and matters which relate solely to an earlier date), and all covenants of the County set forth in this Agreement which are required to be performed by it at or prior to the Closing shall have been performed at or prior to the Closing as provided for in this Agreement. The County shall give Segale Properties prompt written notice of any material change in any of the information contained in the representations and warranties made in Article 3 or elsewhere in this Agreement which occurs prior to the Closing Date.

#### **ARTICLE 7. COVENANTS OF SEGALE PROPERTIES PENDING CLOSING**

**7.1 CONDUCT, NOTICE OF CHANGE.** Segale Properties covenants that between the date hereof and the Closing, Segale Properties shall take all such actions as may be necessary to assure that the representations and warranties set forth in Article 3 hereof will be true and complete as of the Closing Date (except such representations, warranties and matters which relate solely to an earlier date), and that all covenants of Segale Properties set forth in this Agreement which are required to be performed by it at or prior to the Closing shall have been performed at or prior to the Closing as provided in this Agreement. Segale Properties shall give the County prompt written notice of any material change in any of the information contained in the representations and warranties made in Article 3 or elsewhere in this Agreement which occurs prior to the Closing Date.

#### **ARTICLE 8. CONDITIONS PRECEDENT TO SEGALE PROPERTIES OBLIGATIONS**

All obligations of Segale Properties hereunder are subject to the fulfillment of each of the following conditions at or prior to the Closing, and the County shall exert its best efforts to cause each such condition to be fulfilled:

**8.1. DELIVERY OF DOCUMENTS AND FUNDS.** The County shall have delivered to Segale Properties at or prior to closing all documents and funds required by the terms of this Agreement to be delivered to Segale Properties.

**8.2. REPRESENTATIONS, WARRANTIES AND COVENANTS.** All representations, warranties and covenants of the County contained herein or in any document delivered pursuant hereto shall be true and correct in all material respects when made and as of the Closing Date.

**8.3. OBLIGATIONS.** All obligations required by the terms of this Agreement to be performed by the County at or before the Closing shall have been properly performed in all material respects.

**8.4. TITLE.** Any and all matters shown or referred to in the Title Commitment to which Segale Properties has objected within the time specified in Section 4.1, shall have been cured by the County, unless such objections have been waived by Segale Properties. The Title Company is irrevocably committed to issue an owner's standard coverage policy of title insurance containing no exceptions other than the Permitted Exceptions.

**8.5 APPROVAL OF COUNSEL.** THE County's legal counsel shall have approved this document as to form as evidenced by such counsel's signature on this Agreement.

**8.6 CONDEMNATION.** No portion of the Surplus Property shall have been taken or damaged by any public or quasi-public body, and the County shall not have transferred any portion of the Surplus Property to any such body in lieu of condemnation.

## **ARTICLE 9. CONDITIONS PRECEDENT TO COUNTY'S OBLIGATIONS**

All obligations of the County to close on the Closing Date are subject to the fulfillment of each of the following conditions at or prior to the Closing, and Segale Properties shall exert its best efforts to cause each such condition to be so fulfilled:

**9.1. REPRESENTATIONS, WARRANTIES AND COVENANTS.** All representations, warranties and covenants of Segale Properties contained herein or in any document delivered pursuant hereto shall be true and correct in all material respects when made and as of the Closing Date.

**9.2. OBLIGATIONS.** All obligations required by the terms of this Agreement to be performed by Segale Properties at or before the Closing shall have been properly performed in all material respects.

**9.3. DELIVERY OF DOCUMENTS AND FUNDS.** Segale Properties shall have delivered to County at or prior to Closing all documents and funds required by the terms of this Agreement to be delivered to County.

**9.4. TITLE.** Segale Properties shall have caused the Title Company to be irrevocably committed to issue an owner's policy of title insurance for the Surplus Property in the full amount of the respective Purchase Price, effective as of the Closing Date, containing no exceptions other than the Permitted Exceptions.

## **ARTICLE 10. CLOSING**

**10.1. CLOSING/CLOSING DATE.** The Closing shall take place no later than thirty (30) days after the later of (i) the expiration of the Due Diligence Period and (ii) the approval of this Agreement by the King County Council, unless extended pursuant to a written agreement executed by Buyer and Seller. Upon execution of this Agreement, the Parties agree to set up an escrow account with Pacific Northwest Title Company (the "Escrow Agent"). The Escrow Agent shall serve as closing agent for the transaction contemplated herein and closing shall occur in the offices of Escrow Agent in Seattle, Washington. The title, right of possession and interest to the Surplus Property shall pass to Segale Properties upon the Closing Date and thereafter the risk of loss thereof shall be the responsibility of Segale Properties. As provided in Section 1.2, executed counterparts of the Easements shall be delivered to the Escrow Agent within ten (10)

business days of the effective date of this Agreement by both parties and be recorded in favor of the County upon receipt of the Easement Purchase Price from the County.

**10.2. PRORATIONS.** All prorations, unless otherwise specifically provided for herein, shall be made as of the Closing Date.

**10.2.1. CLOSING COSTS.** The County shall pay the cost of one-half (½) of the escrow fee charged by the Escrow Agent, any real estate excise or other transfer tax due, the recording fee of the Easements, and its own attorneys' fees. Segale Properties shall pay one-half (½) of the escrow fee charged by the Escrow Agent, the cost of the preliminary and binding title commitments from the Title Company, the recording fees for the deed and its own attorneys' fees. Except as otherwise provided in this Section 10.2, and Section 9.4 above, all other expenses hereunder shall be paid by the party incurring such expenses.

**10.3. COUNTY'S DELIVERY OF DOCUMENTS AT CLOSING.** At the Closing, the County will deliver to Segale Properties the following properly executed documents:

(a) A Bargain and Sale Deed conveying the Property in the form of **Exhibit E** attached hereto;

(b) The County's Certificate of Non-Foreign status substantially in the form of **EXHIBIT D**, attached hereto.

(c) The Special Use Permit substantially in the form of **EXHIBIT H**, attached hereto.

**10.4. SEGAL PROPERTIES' DELIVERY OF DOCUMENTS AND PURCHASE PRICE AT CLOSING.** At the Closing, Segale Properties will deliver to the County the following properly executed documents:

(a) Cash or immediately available funds in the amount of the Purchase Price for the Surplus Property.

## **ARTICLE 11. TERMINATION**

**11.1. TERMINATION BY EITHER PARTY.** Either party may terminate this Agreement if a condition to its obligation to consummate the transactions contemplated by this Agreement as set forth in Articles 8 and 9 has not been satisfied by the Closing Date. In that event, if neither party is in default under this Agreement, the parties shall have no further obligations or liabilities to one another and all documents delivered into escrow shall be returned to the appropriate party.

**ARTICLE 12.**  
**MISCELLANEOUS PROVISIONS**

**12.1. NATURE AND SURVIVAL OF REPRESENTATIONS AND WARRANTIES.** Each statement, representation, warranty, indemnity, covenant, and agreement made by the County and Segale Properties in this Agreement or in any document, certificate or other instrument delivered by or on behalf of the County or Segale Properties pursuant to this Agreement or in connection herewith shall be deemed the representation, warranty, indemnity, covenant and agreement of the County and Segale Properties and shall survive the Closing Date unless a different time period is expressly provided for in this Agreement and all such statements are made only to and for the benefit of the parties hereto, and shall not create any rights in other persons.

**12.2. DEFAULT AND ATTORNEYS' FEES.** In the event of default by either party to this Agreement, the non-defaulting party shall have the right to bring an action for specific performance, damages and any other remedies available to such party at law or in equity. In the event of any litigation hereunder, the Superior Court of King County, Washington shall have the exclusive jurisdiction and venue.

**12.3. TIME IS OF THE ESSENCE.** Time is of the essence in the performance of this Agreement.

**12.4. NOTICES.** Any and all notices or other communications required or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been duly given upon receipt when personally delivered or sent by overnight courier or two days after deposit in the United States mail if by first class, certified or registered mail, return receipt requested. All notices shall be addressed to the parties at the addresses set forth below or at such other addresses as any parties may specify by notice to all other parties and given as provided herein:

<b>If to Segale:</b>	<b>Mark A. Segale</b> PO Box 88028 Tukwila, WA 98138-2028 Fax No. (206) 575-1837
<b>If to County:</b>	<b>Steve Salyer, Real Estate Services Manager</b> 500 4 <sup>th</sup> Ave., Room 500 Seattle, WA 98104
<b>With a copy to:</b>	<b>Kevin Kiernan, Director, Solid Waste Division</b> 201 S. Jackson St., MS KSC-NR-0701 Seattle, WA 98104-3855

**With a copy to: Kathryn Killinger, Sr. Deputy Prosecuting Attorney**  
King County Courthouse MS KCC-PA-0400  
Seattle, WA 98104

**12.5. ENTIRE AGREEMENT AND AMENDMENT.** This writing (including the Exhibits attached hereto) constitutes the entire agreement of the parties with respect to the subject matter hereof and may not be modified or amended except by a written agreement specifically referring to this Agreement and signed by all parties hereto.

**12.6. SEVERABILITY.** In the event any portion of this Agreement shall be found to be invalid by any court of competent jurisdiction, then such holding shall not impact or affect the remaining provisions of this Agreement unless that court of competent jurisdiction rules that the principal purpose and intent of this contract should and/or must be defeated, invalidated or voided.

**12.7 WAIVER.** No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the party giving such waiver, and no such waiver shall be deemed a waiver of any prior or subsequent breach or default.

**12.8 BINDING EFFECT.** Subject to Section 12.12 below, this Agreement shall be binding upon and inure to the benefit of each party hereto, its successors and assigns.

**12.9 LEGAL RELATIONSHIP.** The Parties to this Agreement execute and implement this Agreement solely as Seller and Buyer. No partnership, joint venture or joint undertaking shall be construed from this Agreement.

**12.10 CAPTIONS.** The captions of any articles, paragraphs or sections contained herein are for purposes of convenience only and are not intended to define or limit the contents of said articles, paragraphs or sections.

**12.11 COOPERATION.** Prior to and after Closing the Parties shall cooperate, shall take such further action and shall execute and deliver further documents as may be reasonably requested by the other party in order to carry out the provisions and purposes of this Agreement.

**12.12 GOVERNING LAW.** This Agreement and all amendments thereof shall be governed by and construed in accordance with the laws of the State of Washington applicable to contracts made and to be performed therein, without giving effect to its conflicts of law provisions.

**12.13 NON-MERGER.** The terms and provisions of this Agreement will not merge in, but will survive, the closing of the transaction contemplated under this Agreement.

**12.14 ASSIGNMENT.** Segale Properties shall not assign this Agreement or any rights hereunder without County's prior written consent, which shall not be unreasonably withheld.

**12.15 NEGOTIATION AND CONSTRUCTION.** This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the Parties, and the language in all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against either party. All Parties acknowledge and represent, as an express term of this Agreement, that they have had the opportunity to obtain and utilize legal review of the terms and conditions outlined in this Agreement, although each Party must determine if they wish to obtain and pay for such legal review. Each Party shall be and is separately responsible for payment of any legal services rendered on their behalf regarding legal review of the terms found in this Agreement.

**12.16 EXHIBITS.** The following Exhibits described herein and attached hereto are fully incorporated into this Agreement by this reference:

EXHIBIT A	Legal Description and Survey of Sewer and Stormwater Drainage Easement
EXHIBIT B	Legal Description and Survey of Temporary Construction Easement
EXHIBIT C	Legal Description and Survey of Surplus Property
EXHIBIT D	Certificate of Non-Foreign Status
EXHIBIT E	Bargain and Sale Deed
EXHIBIT F	Sewer and Storm Water Drainage Easement and
EXHIBIT G	Temporary Construction Easement
EXHIBIT H	Special Use Permit
EXHIBIT I	Access Permit Map

EXECUTED as of the date and year first above written:

**KING COUNTY:**

Name:

Title:

*Stephen Sahly*  
*Manager, Real Estate Services*

APPROVED AS TO FORM:

By

*Jim Taylor*  
 Deputy Prosecuting Attorney

*Jan Taylor*

SEGALE PROPERTIES LLC:

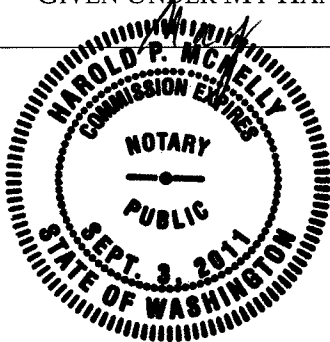
By Metro Land Development, Inc.  
Its Manager

[Signature]  
Mark A. Segale, Vice President

STATE OF WASHINGTON }  
COUNTY OF KING } ss.

On this day personally appeared before me Stephen L. Salzer, to me known to be the Manager, Real Estate of KING COUNTY, the municipal corporation and political subdivision of the State of Washington that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such municipal corporation and political subdivision, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 10<sup>th</sup> day of \_\_\_\_\_, 2010.



[Signature]  
Printed Name Harold P. McNeilly  
NOTARY PUBLIC in and for the State of Washington,  
residing at Seattle  
My Commission Expires 9-3-2011

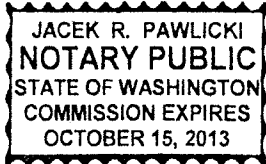
STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this 6<sup>th</sup> day of MAY, 2010, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Mark A. SEGALE, to me known to be the person who signed as Vice President of Metro Land Development, Inc., the corporation acting as manager of SEGALE PROPERTIES LLC the limited liability company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of Metro Land Development, Inc. as manager and of SEGALE PROPERTIES LLC for the uses and purposes therein mentioned; and on oath stated that he was duly elected, qualified and acting as said officer of the corporation and that he was authorized to execute the said instrument on behalf of Metro Land Development, Inc.



and that the seal affixed, if any, is the corporate seal of the corporation, and that the corporation was authorized to execute said instrument on behalf of SEGALE PROPERTIES LLC.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.



Jacek R. Pawlicki  
(Signature of Notary)

JACEK R. PAWLICKI  
(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State  
of Washington, residing at TUKWILA, WA  
My Appointment Expires: OCTOBER 15, 2013

**EXHIBIT A****Legal Description and Survey****Sewer and Storm Water Drainage Easement**

That portion of the northwest and the southwest quarter of the southwest quarter of Section 35, Township 23 North, Range 4 East, W.M., in King County, Washington, more particularly described as follows:

Commencing at the southeast corner of Tax Parcel No. 3523049037, said parcel being known as the King County Bow Lake Transfer Station;  
thence north 04°04'06" east along the east line thereof a distance of 409.89 feet to the True Point of Beginning;  
thence north 04°04'06" east along the east line thereof a distance of 30.22 feet;  
thence along said easement the following courses and distances;  
south 89°22'54" east; 89.54 feet;  
north 00°17'54" east, 180.77 feet;  
north 70°15'18" east, 151.47 feet;  
south 18°05'35" east, 16.25 feet;  
south 12°47'40" east, 13.86 feet;  
south 70°15'18" west, 128.34 feet;  
south 00°17'54" west, 160.11 feet;  
south 89°22'54" east, a distance of 118.28 feet to the intersection with the proposed westerly right of way margin of Southcenter Parkway;  
thence south 09°49'47" west along said proposed right of way line, a distance of 30.39 feet;  
thence north 89°22'54" west, a distance of 234.68 feet to the True Point of Beginning.

Contains an area of 16,424 square feet, or 0.377 acre, more or less.

**EXHIBIT B****Legal Description and Survey****Temporary Construction Easement**Temporary Construction Easement – Segment #1 (15 Foot Temporary Easement)

That portion of the northwest and the southwest quarter of the southwest quarter of Section 35, Township 23 North, Range 4 East, W.M., in King County, Washington, more particularly described as follows:

Commencing at the southeast corner of Tax Parcel No. 3523049037, said parcel being known as the King County Bow Lake Transfer Station;

thence north 04°04'06" east along the east line thereof a distance of 450.13 feet;

thence south 89°18'13" east, 78.79 feet;

thence north 00°17'54" east, 177.84 feet;

thence north 70°15'18" east, 158.75 feet;

thence south 18°05'35" east, 26.62 feet;

thence south 12°47'40" east, 23.93 feet;

thence south 70°15'18" west, 30.26 feet to the True Point of Beginning,

thence along said easement the following courses and distances:

south 18°38'54" east, 50.48 feet;

south 09°30'36" east, 216.15 feet;

south 09°31'24" west, 72.30 feet;

south 47°07'03" east, 26.05 feet to a point of curvature of a curve to the left whence the center bears north 42°52'57" east, a distance of 20.00 feet;

thence along said curve through a central angle of 87°54'06", an arc length of 30.68 feet to the westerly margin of Southcenter Boulevard;

thence south 44°58'49" west along said margin a distance of 31.00 feet to a point of curvature of a curve to the left whence the center bears south 43°15'20" east, a distance of 497.50 feet;

thence along said curve through a central angle of 02°43'51", an arc length of 23.71 feet to a point of curvature of a curve to the left whence the center bears north 45°59'11" west, a distance of 20.00 feet;

thence along said curve through a central of 91°07'52" an arc length of 31.32 feet to the point of tangency;

thence continuing along said easement the following courses and distances:

north 47°07'03" west, 47.05 feet;

north 15°06'40" west, 210.22 feet;

north 51°21'57" west, 52.38 feet;

north 00°17'54" east, 19.12 feet;

south 51°21'57" east, 69.15 feet;

south 15°06'40" east, 212.67 feet;

north 09°31'24" east, 61.08 feet;

north 09°30'36" west, 212.44 feet;

north 18°38'54" west, 49.00 feet;  
 north 70°15'18" east, 15.00 feet to the True Point of Beginning.  
 Contains an area of 10,183 square feet, or 0.224 acre, more or less.

Temporary Construction Easement – Segment #2 (10 Foot Temporary Easement)

That portion of the northwest quarter and the southwest quarter of the southwest quarter of Section 35, Township 23 North, Range 4 East, W.M., in King County, Washington, described as follows:

Commencing at the southeast corner of Tax Parcel No. 3523049037, said parcel being known as the King County Bow Lake Transfer Station;  
 thence north 04°04'06" east along the east line thereof a distance of 410.05 feet to the True Point of Beginning;  
 thence south 89°18'13" east, 121.42 feet;  
 thence north 00°17'54" east, 190.11 feet;  
 thence north 70°15'18" east, 128.34 feet;  
 thence south 12°47'40" east, 10.07 feet;  
 thence south 70°15'18" west, 120.12 feet;  
 thence south 00°17'54" west, 193.18 feet;  
 thence north 89°18'13" west, 132.08 feet to the east line of said tax parcel;  
 thence north 04°04'06" east, 10.02 feet to the True Point of Beginning.  
 Contains an area of 4,426 square feet, or 0.101 acre, more or less.

Temporary Construction Easement – Segment #3 (10 Foot Temporary Easement)

That portion of the northwest quarter and the southwest quarter of the southwest quarter of Section 35, Township 23 North, Range 4 East, W.M., in King County, Washington, described as follows:

Commencing at the southeast corner of Tax Parcel No. 3523049037, said parcel being known as the King County Bow Lake Transfer Station;  
 thence north 04°04'06" east along the east line thereof a distance of 450.13 feet to the True Point of Beginning;  
 thence south 89°18'13" east, 78.79 feet;  
 thence north 00°17'54" east, 177.84 feet;  
 thence north 70°15'18" east, 158.75 feet;  
 thence south 18°05'35" east, 10.00 feet;  
 thence south 70°15'18" west, 151.47 feet;  
 thence south 00°17'54" west, 180.89 feet;  
 thence north 89°18'13" west, 89.45 feet to the east line of said tax parcel  
 thence north 04°04'06" east, 10.02 feet to the True Point of Beginning.  
 Contains an area of 4,185 square feet, or 0.096 acre, more or less.

CONTAINING A TOTAL AREA OF 18,794 SQUARE FEET, OR 0.431 ACRE, M/L

**EXHIBIT C****Legal Description and Survey****Surplus Property****Legal Description "the Ravine" (3.83 acres m/l) and "the Orphan" (1.44 acres m/l)**

Parcel B, City of Tukwila Boundary Line Adjustment No. L09-031 and also described as:

That portion of the northwest quarter of the southwest quarter of Section 35, Township 23 North, Range 4 East, W.M., in King County, Washington, described as follows:

Commencing at the west quarter corner of said Section 35;

thence south 87°56'21" east along the east-west centerline of said Section 35 a distance of 960.00 feet to the True Point of Beginning;  
 thence south 53°24'38" west a distance of 306.16 feet more or less to a point on Highway Engineer's Station Lw 2455+00.0;  
 thence south 80°25'13" east on Highway Engineer's Station Lw 2455+00.0 a distance of 199.40 feet more or less to a line 700 feet east and parallel with Washington State Primary Highway No. 5; According to the Lw survey line;  
 thence south 09°34'47" west along said margin, a distance of 449.32 feet;  
 thence north 65°13'16" west, a distance of 502.58 feet, to the intersection of the south Right of Way margin of Orillia Road Ext. North and the east right of way margin of P.S.H. #1 (SR-5) at Right of Way Station Lw 2451+82.45, 215' right;  
 thence north 09°34'47" east, parallel with P.S.H. #a (SR-5) Lw line of distance of 317.55 feet to Lw 2455+00.0, 215 right;  
 thence south 80°25'13" east, a distance of 50.00 feet to Lw 2455+00.0, 265' right;  
 thence north 09°34'47" east, parallel with P.S.H. #1 (SR-5) Lw line a distance of 161.78 feet to the north line of the southwest quarter of said Section;  
 thence south 87°56'21" east, along said north line a distance of 451.50 feet to the True Point of Beginning;

EXCEPT portions conveyed to the State of Washington for P.S.H. #1 (SR-5)

ALSO EXCEPT road

Contains an area of 229,510 square feet or +/- 5.27 acres, more or less

**EXHIBIT D****Certificate of Non-Foreign Status**

Section 1445 of the Internal Revenue Code provides that a transferee of a United States real property interest must withhold tax if the transferor is a foreign person. To inform the transferee that withholding of tax is not required upon the disposition of a United States real property interest by **KING COUNTY** ("Transferor"); the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations); and
2. Transferor's United States employer identification number is 91-6001327; and
3. Transferor's office address is King County Facilities Management Division, Asset Development and Management Section, Room 500 King County Administration Building, 500 Fourth Avenue, Seattle, WA 98104
4. Transferor understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**TRANSFEROR:**

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

**EXHIBIT E****Bargain and Sale Deed**

King County Real Property Division  
 Room 500A King County Administration Bldg.  
 500 Fourth Avenue  
 Seattle, WA 98

Grantor: King County  
 Grantee: 1) Segale Properties LLC  
 Legal Des: Section 35, Township 23 North, Range 4 East  
 Tax ID #: A Portion of 352304-9037

**BARGAIN AND SALE DEED**

The Grantor, **KING COUNTY**, a political subdivision of the State of Washington, for and in consideration of Ten Dollars (\$10.00) and other valuable consideration, receipt of which is hereby acknowledged, bargains, sells and conveys unto the Grantee, **Segale Properties LLC**, a Washington limited liability company ( "Segale Properties"), the following described real estate, situated in King County, Washington, together with all after acquired title of the Grantor herein for right of way purposes:

**Legal Description "the Ravine" (3.83 acres m/l) and "the Orphan" (1.44 acres m/l) (collectively the "Surplus Property"):**

Parcel B, City of Tukwila Boundary Line Adjustment No. L09-031 and also described as:

That portion of the northwest quarter of the southwest quarter of Section 35, Township 23 North, Range 4 East, W.M., in King County, Washington, described as follows:

Commencing at the west quarter corner of said Section 35;

thence south 87°56'21" east along the east-west centerline of said Section 35 a distance of 960.00 feet to the True Point of Beginning;  
 thence south 53°24'38" west a distance of 306.16 feet more or less to a point on Highway Engineer's Station Lw 2455+00.0;  
 thence south 80°25'13" east on Highway Engineer's Station Lw 2455+00.0 a distance of 199.40 feet more or less to a line 700 feet east and parallel with Washington State Primary Highway No. 5; According to the Lw survey line;  
 thence south 09°34'47" west along said margin, a distance of 449.32 feet;  
 thence north 65°13'16" west, a distance of 502.58 feet, to the intersection of the south Right of Way margin of Orillia Road Ext. North and the east right of way margin of P.S.H. #1 (SR-5) at Right of Way Station Lw 2451+82.45, 215' right;





**SCHEDULE 1**

**Permitted Exceptions**

**EXHIBIT F****Sewer and Storm Water Drainage Easement**

King County Real Estate Services  
 500 Fourth Avenue, Rm 500A  
 Seattle, WA 98104

Grantor: 1) Segale Properties LLC  
 Grantee: King County  
 Legal: W ½, 35-23-04  
 Tax Parcel ID # 352304-9049; 352304-9050; 352304-9051; 352304-9015

**SEWER AND STORMWATER DRAINAGE EASEMENT**

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_ 2010,  
 between SEGAL PROPERTIES LLC, hereinafter called the Grantor and **KING COUNTY** a  
 political subdivision of the State of Washington, hereinafter called Grantee.

**WITNESSETH**

Whereas, the Grantor herein is the owner of those certain parcels of land described as follows:

**PARCEL A: (APN 352304-9015)**

Parcel A, City of Tukwila Boundary Line Adjustment Number L06-029, recorded under  
 Recording Number 20060913900003, in King County, Washington, being a portion of the  
 southwest quarter of Section 35, Township 23 North, Range 4 East, W.M., in King County,  
 Washington.

**PARCEL B: (APN 352304-9050)**

That portion of Government Lot 7, Section 35, Township 23 North, Range 4 East, W.M., in King  
 County, Washington, lying northwesterly of county road (known as 57<sup>th</sup> Avenue South);

EXCEPT that portion thereof described as follows:

Beginning at an iron pipe set at the intersection of the north line said government Lot 7 with the  
 west line of said county road;

thence west along the said north line 210 feet, more or less, to an iron pipe at the foot of the hill;

thence southerly along the foot of the hill 259 feet, more or less, to an iron pipe set in the westerly line of said County Road;  
 thence northeasterly 313 feet, more or less, along said county road to the True Point of Beginning.

PARCEL C: (APN 352304-9049)

The north 490 feet of the east 100 feet of that portion of the southwest quarter of the southwest quarter of Section 35, Township 23 North, Range 4 East, W.M., in King County, Washington, described as follows:

Beginning at a point on the south boundary line of the southwest quarter of the southwest quarter of Section 35, Township 23 North, Range 4 East, W.M., in King County, Washington, from which point the southwest corner of said section bears north  $89^{\circ}03'20''$  west, a distance of 507.00 feet;  
 thence along said south line south  $89^{\circ}03'20''$  east to the westerly line of county road;  
 thence northeasterly along said westerly line of said county road to its intersection with the east line of the southwest quarter of the southwest quarter of Section 35;  
 thence northerly along said east line to the northeast corner of said subdivision;  
 thence westerly along the north line thereof, 100.00 feet;  
 thence southerly parallel to the east line of said subdivision 490.00 feet;  
 thence westerly along a line parallel to the north line of said subdivision 1238.31 feet, more or less, to the west line of said subdivision;  
 thence southerly along said west line to its intersection with the northeasterly line of the Orillia Road Extension;  
 thence southeasterly along said northeasterly line of said road to its intersection with the northeasterly line of that certain tract of land heretofore conveyed to King County by deed recorded in Volume 1522 of Deeds, page 526, in King County, Washington, recorded under Recording Number 2722034;  
 thence southeasterly along said northeasterly line to an angle point herein;  
 thence continuing southeasterly along the northeasterly line of said tract, 731.2 feet to the Place of Beginning;

EXCEPT any portion thereof lying within a tract of land conveyed to King County by deed recorded under Recording Number 3353356.

PARCEL D: (APN 352304-9051)

That portion of the northwest quarter of the southwest quarter of Section 35, Township 23 North, Range 4 East, W.M., in King County, Washington, lying easterly of the Orillia Road Extension, described as follows:

Beginning at the west quarter corner of said Section 35;  
 thence south  $87^{\circ}56'00''$  east along east and west center line 960 feet;  
 thence south  $53^{\circ}24'59''$  west 727.57 feet to the True Point of Beginning;

thence south 38°42'02" east 1144.63 feet to the south line of the northwest quarter of the southwest quarter;  
 thence south 87°57'00" east along said south line 100 feet to the southeast corner of said subdivision;  
 thence north 04°04'00" east along the east line to a point bearing south 85°56'00" east from the true point of beginning;  
 thence north 85°56'00 west to the True Point of Beginning;

EXCEPT any portion lying within that certain tract conveyed to Charles C. Strong and others, dated July 5, 1904, and recorded under Recording Number 322573;

AND EXCEPT that portion condemned in King County Superior Court Cause Number 590470 for Primary State Highway No. 1.

The said Grantor, for and in consideration of Ten (\$10.00) Dollars and other valuable consideration, receipt of which is hereby acknowledged, do by these presents grant to said Grantee, its successors and assigns, agents, and licensees, an easement for a drainage facility over, through, across, and under the property hereinafter described, situated in King County, Washington, being described as follows:

That portion of the northwest and the southwest quarter of the southwest quarter of Section 35, Township 23 North, Range 4 East, W.M., in King County, Washington, more particularly described as follows:

Commencing at the southeast corner of Tax Parcel No. 3523049037, said parcel being known as the King County Bow Lake Transfer Station;

thence north 04°04'06" east along the east line thereof a distance of 409.89 feet to the True Point of Beginning;

thence north 04°04'06" east along the east line thereof a distance of 30.22 feet;

thence along said easement the following courses and distances;

south 89°22'54" east, 89.45 feet;

north 00°17'54" east, 180.77 feet;

north 70°15'18" east, 151.47 feet;

south 18°05'35" east, 16.25 feet;

south 12°47'40" east, 13.86 feet;

south 70°15'18" west, 128.34 feet;

south 00°17'54" west, 160.11 feet;

south 89°22'54" east, a distance of 118.28 feet to the intersection with the proposed westerly right of way margin of Southcenter Parkway;

thence south 09°49'47" west along said proposed right of way line, a distance of 30.39 feet;

thence north 89°22'54" west, a distance of 234.68 feet to the true point of beginning.

Contains an area of 16,424 square feet, or 0.377 acre, more or less.

NOW THEREFORE, the Grantee, its successors and assigns, shall have the right at such time as may be necessary, to enter upon the property for the purposes of constructing, reconstructing, maintaining, and repairing said drainage facility, as herein set forth, in conformity with standard

plans and specifications, and to the same extent and purposes as if the rights herein granted had been acquired by condemnation proceedings under Eminent Domain of the State of Washington.

## **2. Miscellaneous Covenants.**

The Grantor and the Grantee, by accepting and recording the Sewer and Stormwater Drainage Easement more fully described above, further agree as follows:

A. Grantee, and its successors and assigns, shall protect, indemnify, defend and hold Grantor, and its successors and assigns, harmless from and against any and all losses, costs, claims, suits, liabilities, causes of action and expenses of any kind or nature which are caused by or result from a negligent action or omission of Grantee, its officers, agents and employees by reason of the exercise of the rights granted under this Sewer and Stormwater Drainage Easement.

B. Without limiting the generality of the foregoing indemnity set forth in Paragraph 2(A) of this instrument, Grantee shall protect, indemnify, defend, and hold harmless Grantor, and its successors and assigns, from and against any and all loss, costs, claims, suits, liabilities, causes of action and expenses of any kind or nature arising out of, related to, resulting from or incurred by reason of or based upon, the release onto or from Grantor's Property by Grantee, or any of its respective employees, agents, contractors and/or licensees of any hazardous or toxic materials or substances, or the violation by any such party of any law or laws regulating the handling, treatment, storage, disposal, release, or transport of any hazardous or toxic materials or substances. The term "hazardous or toxic materials or substances" as used in this instrument shall mean any hazardous, dangerous or toxic wastes, materials, or substances as defined in state or federal statutes or regulations as currently adopted or hereafter amended.

C. The rights, conditions, covenants and provisions contained in this instrument shall inure to the benefit of and are binding on the parties hereto and their respective heirs, administrators, executors, successors and assigns and shall run with the land.

D. All right, title and interest that may be used and enjoyed without interfering with the Sewer and Stormwater Drainage Easement rights conveyed in this instrument are reserved to the Grantor.

E. Each party to this instrument has been represented by counsel in connection with the negotiation, execution and delivery of this instrument. Each of the provisions of this instrument has been reviewed and negotiated, and represents the combined work product of both parties to this instrument. No presumption or other rules of construction which would interpret the provisions of this instrument in favor of or against the party preparing the same will apply in connection with the construction or interpretation of any of the provisions of this Sewer and Stormwater Drainage Easement.

F. The laws of the State of Washington shall govern the interpretation and enforcement of this Sewer and Stormwater Drainage Easement.

G. Upon at least sixty (60) days prior written notice from Grantor to Grantee, Grantee shall relocate Grantee's improvements to a location mutually acceptable to both Grantor and Grantee, provided however, that such relocation shall be at Grantor's sole cost and expense, including all reasonable direct and indirect costs and/or damages incurred by the County.

H. In the event that a portion or portions of the Sewer and Stormwater Drainage Easement area need to be used for the construction of Southcenter Parkway by entities and/or their agents that are not parties to this agreement, the parties shall work cooperatively with each other to avoid interference and to enable the separate work to occur in the Sewer and Stormwater Drainage Easement area. This easement shall terminate automatically without further action required of either party for that portion of the easement area, if any, that is deeded after the date of this easement by Grantor to the City of Tukwila for the Southcenter Parkway right of way. If the west margin of the Southcenter Parkway right of way line is adjusted to a location different than described in Exhibit A, the legal description of the Sewer and Stormwater Drainage Easement will be adjusted to ensure closure of the west margin of the Southcenter Parkway right of way and the east margin of the Sewer and Stormwater Drainage Easement.

IN WITNESS WHEREOF, the parties have executed this instrument on \_\_\_\_\_.

**KING COUNTY:**

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

APPROVED AS TO FORM:

By \_\_\_\_\_  
Deputy Prosecuting Attorney

SEGALE PROPERTIES LLC,  
a Washington limited liability company

By Metro Land Development, Inc.  
Its Manager

\_\_\_\_\_  
Mark A. Segale, Vice President

STATE OF WASHINGTON }  
                                  } ss.  
COUNTY OF KING

On this day personally appeared before me \_\_\_\_\_, to me known to be the \_\_\_\_\_ of KING COUNTY, the municipal corporation and political subdivision of the State of Washington that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such municipal corporation and political subdivision, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

STATE OF WASHINGTON )  
                                  : ss  
COUNTY OF KING        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2010, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the person who signed as \_\_\_\_\_, of Segale Properties LLC, a Washington limited liability company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said limited liability company for the uses and purposes therein mentioned, and on oath stated that he/she was duly elected, qualified and acting as said officer of the limited liability company and that he/she was authorized to execute the said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

\_\_\_\_\_  
(Signature of Notary)

\_\_\_\_\_  
(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State of Washington

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

My Appointment expires: \_\_\_\_\_

**EXHIBIT G**

King County Property Services Division  
King County Administration Building, Rm. 500  
500 Fourth Avenue  
Seattle, WA 98104

**TEMPORARY CONSTRUCTION EASEMENT**

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_ 2009, between SEGALE PROPERTIES LLC, a Washington limited liability company, , hereinafter called the Grantor, and **KING COUNTY** a political subdivision of the State of Washington, hereinafter called Grantee.

**WITNESSETH:**

WHEREAS, the Grantor represents and warrants to be the owner of those certain parcels of land described as follows:

PARCEL A: (APN 352304-9015)

Parcel A, City of Tukwila Boundary Line Adjustment Number L06-029, recorded under Recording Number 20060913900003, in King County, Washington, being a portion of the southwest quarter of Section 35, Township 23 North, Range 4 East, W.M., in King County, Washington.

PARCEL B: (APN 352304-9050)

That portion of Government Lot 7, Section 35, Township 23 North, Range 4 East, W.M., in King County, Washington, lying northwesterly of county road (known as 57<sup>th</sup> Avenue South);

EXCEPT that portion thereof described as follows:



Beginning at an iron pipe set at the intersection of the north line said government Lot 7 with the west line of said county road;  
 thence west along the said north line 210 feet, more or less, to an iron pipe at the foot of the hill;  
 thence southerly along the foot of the hill 259 feet, more or less, to an iron pipe set in the westerly line of said County Road;  
 thence northeasterly 313 feet, more or less, along said county road to the True Point of Beginning.

PARCEL C: (APN 352304-9049)

The north 490 feet of the east 100 feet of that portion of the southwest quarter of the southwest quarter of Section 35, Township 23 North, Range 4 East, W.M., in King County, Washington, described as follows:

Beginning at a point on the south boundary line of the southwest quarter of the southwest quarter of Section 35, Township 23 North, Range 4 East, W.M., in King County, Washington, from which point the southwest corner of said section bears north  $89^{\circ}03'20''$  west, a distance of 507.00 feet;  
 thence along said south line south  $89^{\circ}03'20''$  east to the westerly line of county road;  
 thence northeasterly along said westerly line of said county road to its intersection with the east line of the southwest quarter of the southwest quarter of Section 35;  
 thence northerly along said east line to the northeast corner of said subdivision;  
 thence westerly along the north line thereof, 100.00 feet;  
 thence southerly parallel to the east line of said subdivision 490.00 feet;  
 thence westerly along a line parallel to the north line of said subdivision 1238.31 feet, more or less, to the west line of said subdivision;  
 thence southerly along said west line to its intersection with the northeasterly line of the Orillia Road Extension;  
 thence southeasterly along said northeasterly line of said road to its intersection with the northeasterly line of that certain tract of land heretofore conveyed to King County by deed recorded in Volume 1522 of Deeds, page 526, in King County, Washington, recorded under Recording Number 2722034;  
 thence southeasterly along said northeasterly line to an angle point herein;  
 thence continuing southeasterly along the northeasterly line of said tract, 731.2 feet to the Place of Beginning;  
 EXCEPT any portion thereof lying within a tract of land conveyed to King County by deed recorded under Recording Number 3353356.

PARCEL D: (APN 352304-9051)

That portion of the northwest quarter of the southwest quarter of Section 35, Township 23 North, Range 4 East, W.M., in King County, Washington, lying easterly of the Orillia Road Extension, described as follows:

Beginning at the west quarter corner of said Section 35;  
 thence south  $87^{\circ}56'00''$  east along east and west center line 960 feet;  
 thence south  $53^{\circ}24'59''$  west 727.57 feet to the True Point of Beginning;

thence south 38°42'02" east 1144.63 feet to the south line of the northwest quarter of the southwest quarter;  
 thence south 87°57'00" east along said south line 100 feet to the southeast corner of said subdivision;  
 thence north 04°04'00" east along the east line to a point bearing south 85°56'00" east from the true point of beginning;  
 thence north 85°56'00 west to the True Point of Beginning;  
 EXCEPT any portion lying within that certain tract conveyed to Charles C. Strong and others, dated July 5, 1904, and recorded under Recording Number 322573;  
 AND EXCEPT that portion condemned in King County Superior Court Cause Number 590470 for Primary State Highway No. 1.

WHEREAS, the Grantee is about to perform certain improvement work on: Bow Lake Transfer Station

NOW, THEREFORE, in consideration of the premises, the Grantor hereby grants to the Grantee, by this Agreement, the right to locate equipment on the following described land for the purposes of carrying on said construction activities:

Temporary Construction Easement – Segment #1 (15 Foot Temporary Easement)

That portion of the northwest and the southwest quarter of the southwest quarter of Section 35, Township 23 North, Range 4 East, W.M., in King County, Washington, more particularly described as follows:

Commencing at the southeast corner of Tax Parcel No. 3523049037, said parcel being known as the King County Bow Lake Transfer Station;  
 thence north 04°04'06" east along the east line thereof a distance of 450.13 feet;  
 thence south 89°18'13" east, 78.79 feet;  
 thence north 00°17'54" east, 177.84 feet;  
 thence north 70°15'18" east, 158.75 feet;  
 thence south 18°05'35" east, 26.62 feet;  
 thence south 12°47'40" east, 23.93 feet;  
 thence south 70°15'18" west, 30.26 feet to the True Point of Beginning,  
 thence along said easement the following courses and distances:  
 south 18°38'54" east, 50.48 feet;  
 south 09°30'36" east, 216.15 feet;  
 south 09°31'24" west, 72.30 feet;  
 south 47°07'03" east, 26.05 feet to a point of curvature of a curve to the left whence the center bears north 42°52'57" east, a distance of 20.00 feet;  
 thence along said curve through a central angle of 87°54'06", an arc length of 30.68 feet to the westerly margin of Southcenter Boulevard;  
 thence south 44°58'49" west along said margin a distance of 31.00 feet to a point of curvature of a curve to the left whence the center bears south 43°15'20" east, a distance of 497.50 feet;

thence along said curve through a central angle of  $02^{\circ}43'51''$ , an arc length of 23.71 feet to a point of curvature of a curve to the left whence the center bears north  $45^{\circ}59'11''$  west, a distance of 20.00 feet;

thence along said curve through a central of  $91^{\circ}07'52''$  an arc length of 31.32 feet to the point of tangency;

thence continuing along said easement the following courses and distances:

north  $47^{\circ}07'03''$  west, 47.05 feet;

north  $15^{\circ}06'40''$  west, 210.22 feet;

north  $51^{\circ}21'57''$  west, 52.38 feet;

north  $00^{\circ}17'54''$  east, 19.12 feet;

south  $51^{\circ}21'57''$  east, 69.15 feet;

south  $15^{\circ}06'40''$  east, 212.67 feet;

north  $09^{\circ}31'24''$  east, 61.08 feet;

north  $09^{\circ}30'36''$  west, 212.44 feet;

north  $18^{\circ}38'54''$  west, 49.00 feet;

north  $70^{\circ}15'18''$  east, 15.00 feet to the True Point of Beginning.

Contains an area of 10,183 square feet, or 0.224 acre, more or less.

Temporary Construction Easement – Segment #2 (10 Foot Temporary Easement)

That portion of the northwest quarter and the southwest quarter of the southwest quarter of Section 35, Township 23 North, Range 4 East, W.M., in King County, Washington, described as follows:

Commencing at the southeast corner of Tax Parcel No. 3523049037, said parcel being known as the King County Bow Lake Transfer Station;

thence north  $04^{\circ}04'06''$  east along the east line thereof a distance of 410.05 feet to the True Point of Beginning;

thence south  $89^{\circ}18'13''$  east, 121.42 feet;

thence north  $00^{\circ}17'54''$  east, 190.11 feet;

thence north  $70^{\circ}15'18''$  east, 128.34 feet;

thence south  $12^{\circ}47'40''$  east, 10.07 feet;

thence south  $70^{\circ}15'18''$  west, 120.12 feet;

thence south  $00^{\circ}17'54''$  west, 193.18 feet;

thence north  $89^{\circ}18'13''$  west, 132.08 feet to the east line of said tax parcel;

thence north  $04^{\circ}04'06''$  east, 10.02 feet to the True Point of Beginning.

Contains an area of 4,426 square feet, or 0.101 acre, more or less.

Temporary Construction Easement – Segment #3 (10 Foot Temporary Easement)

That portion of the northwest quarter and the southwest quarter of the southwest quarter of Section 35, Township 23 North, Range 4 East, W.M., in King County, Washington, described as follows:

Commencing at the southeast corner of Tax Parcel No. 3523049037, said parcel being known as the King County Bow Lake Transfer Station;

thence north 04°04'06" east along the east line thereof a distance of 450.13 feet to the True Point of Beginning;

thence south 89°18'13" east, 78.79 feet;

thence north 00°17'54" east, 177.84 feet;

thence north 70°15'18" east, 158.75 feet;

thence south 18°05'35" east, 10.00 feet;

thence south 70°15'18" west, 151.47 feet;

thence south 00°17'54" west, 180.89 feet;

thence north 89°18'13" west, 89.45 feet to the east line of said tax parcel

thence north 04°04'06" east, 10.02 feet to the True Point of Beginning.

Contains an area of 4,185 square feet, or 0.096 acre, more or less.

CONTAINING A TOTAL AREA OF 18,794 SQUARE FEET, OR 0.431 ACRE, M/L

The above-described Temporary Construction Easement shall commence on the date this instrument is executed by the Grantor and Grantee and will automatically terminate without further action required of either party on December 31, 2012.

The Grantee shall, upon completion of its work, remove all equipment and debris, and restore the surface of the Temporary Construction Easement Areas identified above (i) to the condition existing prior to entry by Grantee, (ii) repair any damage occasioned by its entry onto and use of the Easement Areas, and (iii) replace and replant any destroyed or removed trees and vegetation within the Temporary Construction Easement Area. Grantee shall not remove any trees or vegetation from the Temporary Construction Easement Areas without the prior approval of Grantor.

## **2. Miscellaneous Covenants.**

The Grantor and the Grantee, by accepting and recording the Temporary Construction Easement more fully described above, further agree as follows:

A. Grantee, and its successors and assigns, shall protect, indemnify, defend and hold Grantor, and its successors and assigns, harmless from and against any and all loss, costs, claims, suits, liabilities, causes of action and expenses of any kind or nature which are caused by or result from a negligent action or omission of Grantee, its officers, agents and employees by reason of the exercise of the rights granted under this Temporary Construction Easement.

B. Without limiting the generality of the foregoing indemnity set forth in Paragraph 2(A) of this instrument, Grantee shall protect, indemnify, defend, and hold harmless Grantor, and its successors and assigns, from and against any and all loss, costs, claims, suits, liabilities, causes of action and expenses of any kind or nature arising out of, related to, resulting from or incurred by reason of or based upon, the release onto or from Grantor's Property by Grantee, or any of its respective employees, agents, contractors and/or licensees of any hazardous or toxic materials or substances, or the violation by any such

party of any law or laws regulating the handling, treatment, storage, disposal, release, or transport of any hazardous or toxic materials or substances. The term "hazardous or toxic materials or substances" as used in this instrument shall mean any hazardous, dangerous or toxic wastes, materials, or substances as defined in state or federal statutes or regulations as currently adopted or hereafter amended.

C. The rights, conditions, covenants and provisions contained in this instrument shall inure to the benefit of and are binding on the parties hereto and their respective heirs, administrators, executors, successors and assigns and shall run with the land.

D. All right, title and interest that may be used and enjoyed without interfering with the Temporary Construction Easement rights conveyed in this instrument are reserved to the Grantor.

E. Each party to this instrument has been represented by counsel in connection with the negotiation, execution and delivery of this instrument. Each of the provisions of this instrument has been reviewed and negotiated, and represents the combined work product of both parties to this instrument. No presumption or other rules of construction which would interpret the provisions of this instrument in favor of or against the party preparing the same will apply in connection with the construction or interpretation of any of the provisions of this Temporary Construction Easement.

F. The laws of the State of Washington shall govern the interpretation and enforcement of this Temporary Construction Easement.

G. In the event that a portion or portions of the Temporary Construction Easement area need to be used for the construction of Southcenter Parkway by entities and/or their agents that are not parties to this agreement, the parties shall work cooperatively with each other to avoid interference and to enable the separate work to occur in the Temporary Construction Easement area. It is further agreed that a portion of this Temporary Construction Easement will be conveyed to the city of Tukwila for the new Southcenter Parkway right of way. That portion conveyed to the city of Tukwila shall be subtracted from the temporary construction easement area upon recording of the Deed for right of way.

IN WITNESS WHEREOF, the parties have executed this instrument on \_\_\_\_\_.

**KING COUNTY:**

Name: \_\_\_\_\_

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

APPROVED AS TO FORM:

By \_\_\_\_\_  
Deputy Prosecuting Attorney

SEGALE PROPERTIES LLC,  
a Washington limited liability company

By Metro Land Development, Inc.  
Its Manager

\_\_\_\_\_  
Mark A. Segale, Vice President

STATE OF WASHINGTON }  
                                  } ss.  
COUNTY OF KING

On this day personally appeared before me \_\_\_\_\_, to me known to be the \_\_\_\_\_ of KING COUNTY, the municipal corporation and political subdivision of the State of Washington that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such municipal corporation and political subdivision, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

STATE OF WASHINGTON )  
                                  : Ss  
COUNTY OF KING )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2010, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the person who signed as \_\_\_\_\_, of Segale Properties LLC, a Washington limited liability company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said limited liability company for the uses and purposes therein mentioned, and on oath stated that he/she was duly elected, qualified and acting

as said officer of the limited liability company and that he/she was authorized to execute the said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

\_\_\_\_\_  
*(Signature of Notary)*

\_\_\_\_\_  
*(Print or stamp name of Notary)*

NOTARY PUBLIC in and for the State of Washington

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

My Appointment expires: \_\_\_\_\_

**EXHIBIT H**

**Special Use Permit**





King County

KING COUNTY  
Department of Construction and Facilities Management  
Property Services Division  
500 King County Administration Building  
500 Fourth Avenue  
Seattle, WA 98104 (206) 296-7456 FAX 296-0196

16933

DRAFT

SPECIAL USE PERMIT  
Use of County Owned Property

PERMIT NUMBER: S-35-10	FILE NO.	DATE: 04/29/2010
PERMITTEE:		
SEGALE PROPERTIES - MARK SEGALE P.O. BOX 88028 TUKWILA, WA 98138-		
DAY PHONE: 206-575-2000	OTHER/FAX PHONE: 206-575-1837F	
PURPOSE: FOR LIMITED ACCESS TO NORTHERLY ADJOINING SURPLUS PROPERTY FOR SURVEYS, GEOGRAPHICAL STUDIES & INSPECTIONS.		
LEGAL DESCRIPTION	1/4 Sec Twp Rge Account No.	Kroll Page
SW 35 23 04	352304-9037	350W
SW 35 23 04	352304-9124	350W
BOW LAKE TRANSFER STATION - 18800 ORILLIA RD. S. WITHIN THE BOUNDARIES OF THE ABOVE REFERENCED PARCELS.		
EXPIRATION: This permit shall not be valid for more than 5 YEARS and expires on the _____ day of _____ 2015.		
PERMIT FEE:	\$ 500.00	INSPECTION FEE: \$ 0.00
ADMINISTRATIVE FEE:	\$ 0.00	PLAN REVIEW FEE: \$ 0.00
LAND USE FEE:	\$ 0.00	OTHER FEE: \$ 0.00
BOND AMOUNT:	\$ 0.00	INSURANCE AMOUNT: \$ 1,000,000.00
Permittee MUST notify TOM CREEGAN AT: 206-263-6476 AT LEAST 72 HOURS PRIOR TO PERFORMING ANY WORK & IMMEDIATELY UPON COMPLETION.		
By this permit King County authorizes the use of the above described property:		
Custodial Approval _____	Date _____	
Property Services Approval _____	Date _____	
The Permittee agrees to comply with the terms and conditions contained herein. SEE REVERSE SIDE FOR TERMS AND CONDITIONS.		
Signature of Permittee _____	Date _____	

NOTE: Permit not valid without all necessary signatures and expiration date.  
Ordinance 4099, King County Code 14.46

1. **PERMIT REVOCATION:** This Permit is revocable at any time by King County. The right to revoke is expressly reserved to King County.
2. **INDEMNITY AND HOLD HARMLESS.** The Permittee agrees to indemnify and hold harmless King County as provided herein to the maximum extent possible under law. Accordingly, the Permittee agrees for itself, its 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 which is caused by, arises out of, or is incidental to Permittee's exercise of rights and privileges granted by this Permit. The Permittee's obligation under this section shall include: a) Indemnification for such claims whether or not they arise from the sole negligence of either the County or the Permittee, the concurrent negligence of both parties, or the negligence of one or more third parties. b) The duty to promptly accept tender of defense and provide defense to the County at the Permittee's own expense. c) Indemnification of claims made by the Permittee's own employees or agents. d) Waiver of the Permittee's immunity under the industrial insurance provisions of Title 51 RCW, which waiver has been mutually negotiated by the parties.
- In the event it is necessary for the County to incur attorney's fees, legal expenses, or other costs to enforce the provisions of this section, all such fees, expenses, and costs shall be recoverable from the Permittee.
- In the event it is determined that RCW 4.24.115 applies to this agreement, the Permittee agrees to defend, hold harmless, and indemnify King County to the maximum extent permitted thereunder, and specifically for its negligence concurrent with that of King County to the full extent of Permittee's negligence. Permittee agrees to defend, indemnify, and hold harmless the County for claims by Permittee's employees and agrees to waiver of its immunity under Title 51 RCW, which waiver has been mutually negotiated by the parties.
3. **ANTI-DISCRIMINATION:** In all hiring or employment made possible or resulting from this Permit, there shall be no discrimination against any employee or applicant for employment because of race, color, ancestry, religion, national origin, age, sex, sexual orientation, marital status, or the presence of any sensory, mental or physical handicap in an otherwise qualified handicapped person unless based upon a bona fide occupational qualification, and 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. No person shall be denied, or subjected to discrimination in receipt of the benefit of any services or activities made possible by or resulting from this Permit on the grounds of race, color, ancestry, religion, national origin, age (except minimum age and retirement provisions), sex, sexual orientation, marital status, parental status, the presence of any sensory, mental or physical handicap, or the use of a trained guide-dog by a blind or deaf person. Any violation of this provision shall be considered a violation of a material provision of this Permit and shall be grounds for cancellation, termination or suspension in whole or in part of the Permit by the County, and may result in ineligibility for further County permits.
4. **NON-EXCLUSIVE RIGHT:** This Permit shall not be deemed or construed to be an exclusive right. It does not prohibit the County from granting any other permits to other public or private entities, nor shall it prevent the County from using any public place for any and all public use or affect its jurisdiction over any part of them.
5. **ASSESSMENTS:** Permittee shall be required to pay any general or special assessments incurred by King County which are directly attributable to or arising from any actions, occupancy, or usage authorized herein.
6. **TERMINATION:** The Permittee may terminate the Permit by written notice to the Manager of Real Estate Services Section. Upon revocation, termination, or abandonment, the Permittee shall remove at his expense all facilities placed on said property by the Permittee, and restore the premises to a condition which is equivalent in all respects to the condition existing prior to installation of the facilities, or to a condition which is satisfactory to the County. If the Permittee has not accomplished removal and restoration at the end of a ninety-day period following the effective date of revocation, termination, expiration, or abandonment, the County may accomplish all of the necessary work and charge all of the costs to the Permittee.
7. **RESTORATION:** After completion of work authorized by this Permit, the Permittee shall restore the property to a condition which is equivalent in all respects to the condition of the property prior to starting work, or a condition satisfactory to King County. If the Permittee delays the restoration beyond expiration of the Permit, the County may accomplish all the necessary work and charge all the costs to the Permittee.
8. **REPAIRING DAMAGE BY PERMITTEE:** In the event that damage of any kind is caused by the Permittee in the course of performing work authorized by this Permit, Permittee will repair said damage at its sole cost and expense. Repair work shall begin without delay and continue without interruption until completed. If damage is extensive, the time allowed for repair will be prescribed by the County agent. If the County determines it is necessary, the County may accomplish the work and charge all the costs to the Permittee.
9. **ABATEMENT OF UNSAFE CONDITIONS:** The County representative may at any time, do, order, or have done all work considered necessary to restore to a safe condition any area described in Permit left by the Permittee in a condition dangerous to life or property. The Permittee shall pay, upon demand, to the County all costs of such work, materials, etc. Nothing in this section shall relieve the Permittee of duties under Terms and Conditions No. 2 above.
10. **RIGHTS RESERVED TO COUNTY - CONFORMANCE AND PAYMENT OF COST REQUIRED:** The County reserves the right to use, occupy, and enjoy its property for such purposes as it shall desire including, but not limited to, constructing or installing structures and facilities on the property, or developing, improving, repairing or altering the property. The Permittee, upon written notice, will at his own cost and expense remove, repair, relocate, change or reconstruct such installations to conform with the plans of work contemplated or ordered by the County according to a time schedule contained in the written notice.
11. **NOTICE:** Permittee agrees to obtain information from other utility operators regarding the location and current status of their installations before starting work. Property owners adjoining, or in proximity to, the project as described herein shall be notified by Permittee when such property is exposed to the possibility of injury or damage through performance of work on the project authorized by this Permit. Permittee shall make all advance arrangements necessary to protect such property or utility from injury or damage.
12. **OTHER APPLICABLE LAWS:** Issuance of this Permit does not in any way relieve the Permittee from complying with any other applicable laws in performing the work subject to this Permit.
13. **RE-ENTRY:** After completion of work authorized by this Permit, if the Permittee desires to re-enter upon the property described herein for any reconstruction, notice shall be provided in advance to King County together with the plans and specifications for the work proposed, and shall not be permitted without the County's consent.
14. **TITLE:** This Permit grants only the right to use King County's interest in the herein described property, and the granting of this Permit is not a warranty that good title to any specific property is vested in King County.
15. **SPECIAL TERMS AND CONDITIONS:** (SEE ATTACHED SHEET(S))

SEGALE PROPERTIES  
SPECIAL USE PERMIT  
S-35-10

**15. SPECIAL TERMS AND CONDITIONS:**

- a. The permittee's activities on this site shall be limited to those described in SECTION 5.1.2 & 5.1.3 of the Real Estate Purchase & Sale Agreement.
- b. The permittee's equipment and/or vehicles are not to be staged or stored over night.
- c. The access gate must be lock at all times when equipment and vehicles are not entering and exiting the gate.
- d. The permittee shall not in anyway disrupt the activities of the Solid Waste Division.
- e. The permittee shall restore the property to its original or better condition or to a condition found satisfactory by King County.
- f. The permittee shall be responsible for the removal and disposal of all debris and materials from the permit area immediately upon completion of the work.
- g. The permittee understands that no further work, use, improvements or alterations shall be made without first obtaining a new Special User Permit.
- h. The permittee shall be solely responsible for the replacement and/or repair of any subsurface or surface utilities damaged and/or destroyed as a result of any work authorized by this permit.
- i. The permittee shall restore all roads and any other areas damaged as a result of this permit to its original or better condition.
- j. King County reserves the right to set additional terms as unforeseen conditions may warrant.
- k. King County reserves the right to amend, modify, or revoke this permit and/or terms and condition at his/her sole discretion.

151. INSURANCE:

By the date of issuance of this permit, the permittee shall procure and maintain, for the duration of this permit, insurance or coverage against claims for injuries to persons or damages to property which may arise from and in connection with the rights and privileges granted by this permit and/or the performance of work hereunder by the permittee, his agents, representatives, employees and/or subcontractors.

By requiring such minimum insurance coverage, the County shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this contract. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of the coverage afforded, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(s). Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Agreement.

For All Coverages: The cost of such insurance shall be paid by the permittee. Each insurance policy shall be written on an "Occurrence Form."

1. Minimum Scope and Limits of Insurance

Coverage shall be at least as broad as:

General Liability:

Insurance Services Office form number CG 0001 (Ed. 11-88) covering COMMERCIAL GENERAL LIABILITY. The permittee shall maintain limits no less than \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.

AUTOMOBILE LIABILITY: Insurance Services Office form number (CA 00 01 Ed. 12-90 or its equivalent) covering BUSINESS AUTO COVERAGE, symbol 1 "any auto", or the combination of symbols 2, 8 and 9. Limits shall be no less than \$1,000,000. Combined Single Limit Bodily Injury and Property Damage.

WORKERS COMPENSATION: Workers Compensation coverage, as required by the Industrial Insurance Act of the State of Washington;

EMPLOYERS LIABILITY or "Stop-Gap": The protection 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. Limits shall be no less than \$1,000,000.

2. Deductibles and Self-Insured Retentions

The deductible and/or self-insured retention of the policies shall not limit or apply to the permittee's liability to the County and shall be the sole responsibility of the permittee.

**15I. INSURANCE CONTINUED:**

**3. Other Insurance Provisions**

The insurance policies required in this permit are to contain, or be endorsed to contain the following provisions

a. All Liability policies except Workers Compensation:

1. The County, its officers, officials, employees and agents are to be covered as insured as respects liability arising out of activities performed by or on behalf of the permittee in connection with this permit.
2. 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 should not contribute with the permittee's insurance or benefit the permittee in any way.
3. The permittee'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.

b. All Policies:

Coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits prior to the expiration date of this special use permit, unless forty-five (45) days prior notice, return receipt requested, has been given to the County.

**4. Acceptability of Insurers**

Unless otherwise approved by the County, 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.

**5. Verification of Coverage**

The permittee shall furnish the King County Real Property Division with certificates of insurance and endorsements required by this permit. The County reserves the right to require complete, certified copies of all required insurance policies at any time.

**6. Municipal or State Agency Provision**

If the Permittee is a Municipal Corporation or an agency of the State of Washington and is self-insured for any of the above insurance requirements, a certification of self-insurance shall be attached hereto and be incorporated by reference and shall constitute compliance with this section.

**EXHIBIT I**

Access Permit Map

