

**MASON COUNTY
SIDE SEWER CONSTRUCTION/SEPTIC TANK DECOMMISSIONING AND SITE
ACCESS AGREEMENT
BELFAIR WASTEWATER & WATER RECLAMATION PROJECT
SIDE SEWER CONSTRUCTION PROGRAM**

This Agreement ("Agreement") is made this ____ day of _____, 2011, by and between Mason County, a Washington municipal corporation ("County"), and _____ and _____ ("Owner" or "Grantor") (individually a "Party" and collectively the "Parties") for the purposes set forth herein.

RECITALS

A. The County is presently constructing a new sewer system ("Sewer System") in an area known as Belfair located in Mason County, Washington. The Owner desires to connect the Owner's real property which has a mailing address of _____, which is legally described on **Exhibit A** attached hereto and incorporated herein by this reference ("Property"), to the Sewer System.

B. Pursuant to RCW 36.94.140, the County is authorized to charge property owners seeking connection to the County's sewer system such reasonable connection charges as the Board of Commissioners shall determine to be proper in order that such property owners shall bear their equitable share of the cost of such system. Pursuant to such authority, the County has adopted a sewer connection charge of Three Thousand Dollars (\$3,000.00) ("Connection Charge") for the connection of a residence or equivalent residential unit ("ERU") to the Sewer System. Pursuant to RCW 35.67.360, the County is also authorized to assist the owners of structures to finance the acquisition of materials and for the conservation or more efficient use of sewer services in such structures, provided the County shall have a lien against the property benefited for such financial assistance.

C. To encourage the owners of property with structures that can be served by the Sewer System to promptly connect their property to the Sewer System and to remove the health hazard associated with existing septic systems throughout the Belfair area, County is willing to (a) allow Owner to pay one-half of the Connection Charge (\$1,500.00) in monthly installment payments with interest, and (b) assist Owner with installing a side sewer on the Property, connecting the Property to the Sewer System through a side sewer stub ("Side Sewer Stub") constructed to serve the Property as part of the Sewer System, decommissioning the existing septic tank on the Property, and pay the cost of such work and hook-up to the Sewer System ("Hook-Up Charge") through monthly installment payments with interest subject to the terms and conditions of this Agreement (the financed portion of the "Connection Charge" and the "Hook-Up Charge" collectively referred to herein as the "Sewer Connection Charge"). The Owner desires to pay its Sewer Connection Charge on an installment basis pursuant to the terms and conditions of this Agreement.

D. The purpose of this Agreement is to set forth the terms and conditions of the County's assistance to the Owner to install a side sewer on the Property, connect the side sewer to the Sewer System and decommission the existing septic tank on the Property, and the County's access rights to the Property to perform such work.

E. For the purposes of this Agreement, the side sewer (“Side Sewer”) is defined as the sanitary side sewer pipe to be located on the Grantor’s Property between the Grantor’s habitable structure on the Property (“Building”) and the Side Sewer Stub and all necessary appurtenances. A Side Sewer shall include, where required, a grinder pump service with a grinder pump unit, pump panel, electrical installation, and other associated appurtenances. Following connection of the Grantor’s Building to the Sewer System, the Grantor will no longer need a septic tank system. To encourage Grantor to promptly connect to the Sewer System and remove the health hazard associated with the existing septic systems throughout the Belfair area, the County is willing to assist Grantor with decommissioning its septic tank system as described in this Agreement.

F. Grantor is willing to grant the County, its employees, agents and volunteers permission to enter onto Grantor’s Property for the purposes of installing the Side Sewer on Grantor’s Property, connecting the Grantor’s Building to the Side Sewer (thereby placing the Side Sewer into operation), and decommissioning the Grantor’s septic tank system. Grantor is willing to repay the County’s costs incurred to construct the Side Sewer, connect the Building to the Side Sewer and decommission the septic tank presently serving the Property.

AGREEMENT

NOW, THEREFORE, in consideration of the terms and conditions set forth in this Agreement, the Parties agree as follows:

1. **Right of Entry.** Grantor hereby grants the County right of entry on the Property to install, test, and construct a Side Sewer (Phase 1), connect the Grantor’s Building to the Side Sewer so that is operationally connected to the County’s sewer system (Phase 2), and subsequently decommission the septic tank system (Phase 3). Grantor recognizes that the County’s Contractor(s) (“Contractor”), County personnel and designees of the County shall require access to Grantor’s Building on the Property several times from the date of initial entry until completion of Restoration (as defined herein). The Grantor also will allow access over such area as will be necessary for construction equipment such as backhoes, dump trucks, and septic tank pumper trucks. The County and its Contractor(s) will endeavor to provide advance notification to the Grantor prior to entry on to the Property. For actual construction activities, the notification period will be 48 hours minimum. Nothing regarding this advance notification procedure shall preclude the Grantor from allowing entry on to the Property on shorter notice. Normal hours of work will be Monday through Friday from 7:30 am to 6:30 pm.

(a) **Initial Side Sewer Assessment Work.** The general order of work shall include initial measurements by the County and its Contractor(s) to determine the location of the point where the sanitary sewer piping for the Grantor’s Building passes outside of the Building’s foundation. This point is called the “Plumbing Stubout.” A determination will be made at that time whether the plumbing underneath the Building must be modified in order to relocate the Plumbing Stubout and thereby facilitate the Side Sewer location and its installation. The plumbing modifications required for relocation of the Plumbing Stubout cannot be accomplished until the time of final connection to the County’s sewer system as described below. The initial measurements may necessitate the Contractor digging and underground exploration on the Grantor’s property in order to locate existing facilities and determine their depths below ground.

(b) Side Sewer Installation. There will be period of time after the initial determination until when the actual construction begins. The Contractor will then notify Grantor of its approximate work schedule during which time it will need to access the Property. The Contractor will then excavate a trench between the Building Plumbing Stubout and the point at which the Side Sewer will connect to the County's Sewer System in the nearby County right of way or easement ("County Side Sewer Stub"). The Contractor will then install the Side Sewer piping from the County Side Sewer Stub to a point adjacent to the Plumbing Stubout, but will not connect the Plumbing Stubout to the Side Sewer until the County's Sewer System is operational as described in Section 1(c) below. For those side sewers that include the installation of a grinder pump unit, the Contractor will also at this time install the pump unit, pump panel, electrical installation, and other associated appurtenances. (A Grantor who is being served by a grinder pump unit will be required to complete and execute a Grinder Pump Service Agreement with the County prior to installation of the unit). The work described in 1.a) above and 1.b) herein comprises Phase 1. Restoration shall be as provided in Section 6 of this Agreement.

(c) Side Sewer Connection. If the Side Sewer is constructed before the Sewer System is operational, the Contractor will return to the Grantor's Property at a later date to complete the connection of the Building Stubout to the Side Sewer. If the County's sewer system is operational at the time the Side Sewer construction is completed, the Contractor may choose to complete the connection at that time, subject to the County's determination. At the time of final connection, the Contractor will route the Plumbing Stubout from the Building so as to drain into the Side Sewer instead of the septic tank currently serving the Property. The Contractor will then complete backfill and site restoration as provided in Section 6 of this Agreement. The work herein in Section 1(c) comprises Phase 2. The conclusion of Phase 2 shall constitute "Completion" and the Grantor shall assume responsibility for ownership and maintenance of the Side Sewer as delineated in Section 7 of this Agreement.

(d) Septic Tank Decommissioning. Subsequent to the connection of the Grantor's Building to the County's sewer system, the County will again access the Grantor's property in order to excavate the septic tank and pump chamber lids, pump out the contents of the septic tank and any associated pump chambers, and backfill these tanks and pump chambers with suitable material. The first Contractor to access the Grantor's property will be a licensed septic tank pumper, who will remove the contents of the septic tank and any pump chambers containing septic effluent associated with the septic tank system. The Grantor is responsible for disconnecting the alarms or electrical service, if any, from the septic tank system. The Grantor is responsible for removing or salvaging any electrical or mechanical equipment from the septic tank system. The pumper will replace the septic tank and pump chamber lids back over the site to fill the tank openings and may loosely fill the lids until the second Contractor enters the property to fill the tanks with material approved by the County in accordance with the requirements of Mason County Public Health. The Contractor will then complete backfill and general site restoration as described in Section 6 of this Agreement. The Grantor will be notified when the work is complete. The County will file all notifications of the Septic Tank Decommissioning with Mason County Public Health. The work described herein in Section 1(d) comprises Phase 3.

2. Costs.

(a) The County shall pay its Contractor(s) for all initial costs and expenses associated with construction of the Side Sewer from the County Side Sewer Stub to the Plumbing Stubout and final

connection of the Grantor's Building to the County's sewer system to the extent provided herein. This will include, at the County's discretion, the costs for changing the location of the Grantor's Plumbing Stubout. The County shall not be responsible for any costs and labor associated with changes to the plumbing inside the Building that may be necessary to correct the Grantor's Plumbing where it is not in conformance with current Plumbing or Building Codes. The Grantor agrees to correct any non-conforming plumbing at Grantor's sole expense.

(b) After connection of the Property to the Side Sewer Stub, the County shall also pay its Contractor(s) for all costs and expenses associated with the Septic Tank Decommissioning to the extent provided herein. The County shall promptly pay or cause prompt payment to be made to, and secure the discharge of any liens against the Grantor's Property asserted by all persons and entities furnishing any labor, equipment, services, supplies, materials or other items in connection with County's obligations in this Agreement.

(c) Grantor shall be responsible to pay and reimburse to the County all costs, fees and expenses incurred by County to have the services performed in Section 1(a), (b) and (c) above in the amount not to exceed \$ _____ ("Total Side Sewer Construction Cost") by cash payment in full to the County, due and payable within thirty (30) days of the date of the invoicing of such costs to Owner by County, or by financing such costs through a County "Sewer Connection Charge Monthly Installment Payment Agreement" in the form attached hereto as **Exhibit B** and incorporated herein in full by this reference ("Installment Payment Agreement"). The reimbursement payment shall be pursuant to the terms of the Installment Payment Agreement.

3. Right of Entry and Temporary Construction License. For the right-of-entry provisions described in Sections 3 (a), (b), and (c), below; the required access areas are not specifically described herein, but shall be limited to that area physically necessary to complete the work, including such area as may be necessary for material storage and construction equipment such as backhoes, dump trucks, and septic tank pumper trucks, to complete the work.

(a) Grantor hereby grants to County and its Contractor(s) a non-exclusive right to enter and use such area of Grantor's Property and into the Building as is reasonably necessary to complete excavation, installation, testing, relocation of Grantor's Plumbing Stubout, connection of the Side Sewer, backfill, Property restoration (collectively referred to as "Side Sewer Construction"). The Grantor agrees to provide the County and its Contractor(s) access to the Property and Building's interior during normal construction hours, Monday through Friday, 7:30 am to 6:30 pm or with pre-arranged appointments if necessary.

(b) Subsequent to the work completed under Subsection (a) above, Grantor hereby grants to the County and its Contractor a non-exclusive right to enter and use such area of Grantor's Property and into the Building as is reasonably necessary to complete excavation, installation of the final connection of the Grantor's building to the County's sewer system, backfill, and restoration (collectively referred to as "Connection to the County's Sewer System). This work may include relocation of the Grantor's Plumbing Stubout. The Grantor agrees to provide the County and its Contractor access to the Property and Building's interior and crawlspace during normal construction hours, Monday through Friday, 7:30 am to 6:30 pm or with pre-arranged appointments if necessary.

(c) After completion of the work described in Subsection (b) above, Grantor hereby grants to County and its Contractor a non-exclusive right to enter and use such area of the Property and into the Building as is reasonably necessary to complete the Septic Tank Decommissioning, including without limitation excavation of the septic tank and pumping chamber lids, pumping out the contents of the septic tank and any associated pump chambers, filling tanks and pump chambers with suitable material as described in Section 1 (d) above. The Grantor agrees to promptly remove any structures or improvements that cover the access to the septic tank or other chambers. The Grantor shall be responsible for replacing any structures or improvements that are required to be removed to access the septic tank or other chambers. The Grantor agrees to provide the County and its Contractor access to the Property during normal construction hours, Monday through Friday, 7:30 am to 6:30 pm or with pre-arranged appointments if necessary.

4. Manner of Exercise of Permitted Use. Except as herein provided, the County shall not use the Grantor's Property for any purpose other than as provided in this Agreement. The County shall at all times ensure that the Side Sewer construction and all activities undertaken in accordance with this Agreement are in compliance with all applicable laws, regulations, rules or ordinances of any governmental authority with jurisdiction, and the County shall obtain all necessary permits, approvals or licenses required by any governmental agency with jurisdiction to undertake any activity of the Grantor's Property.

5. Use of Property By Grantor. The Grantor reserves the right to use the Grantor's Property for any and all uses and purposes which do not interfere with installation of the sanitary Side Sewer line during the term of this Agreement; provided however, that Grantor shall not erect buildings or structures of any kind on the Grantor's Property during the term of this Agreement.

6. Restoration. Grantor acknowledges that the Contractor may enter the Property on several occasions to take measurements, excavate and backfill trenches, install pipes and other appurtenances. Within sixty (60) days of completion of all Side Sewer Construction (Phase 1) on Grantor's Property undertaken by or on behalf of the County pursuant to this Agreement, the County shall restore the Grantor's Property as described below in 6.(a) through 6.(h) below. The provisions of 6.(a) through (h) shall also apply to the completion of the Connection to the County's Sewer System (Phase 2) except the Grantor understands that the work associated with the Connection will not necessarily fall within a specified time frame after the Side Sewer Construction. The provisions of 6.(i) through 6.(l) below shall be applicable to the work associated with Septic Tank Decommissioning (Phase 3) and the Grantor further understands that the timing of this restoration work is unknown.

(a) The County or its Contractor shall backfill and compact any trenches or excavations required for the side sewer construction. The trenches and excavations will be backfilled with the material that was removed from the trench unless the County, in its sole discretion, opts to import backfill material. Backfill will be brought to a level that matches the surrounding grades of the Grantor's property leaving room for final restoration as described below.

(b) In areas of lawn or other landscaped areas, the trench will be capped with a 4-inch layer of reused or, if necessary in the opinion of the County, imported topsoil and brought to the finish grade level. The Grantor shall be responsible to re-seed or re-sod the trench area or other areas disturbed by the excavation. The Grantor shall be responsible for maintaining all grass, bushes, trees, landscape or sod that has been replaced as part of the side sewer construction.

(c) In areas of gravel or landscape bark, the County will reuse the gravel or landscape bark in the areas disturbed by the side sewer construction with the material that was removed from the disturbed area. If new gravel is required, the County or its Contractor will furnish and place the material. The Grantor shall be responsible for furnishing and placing new bark or mulch. The Grantor shall be responsible for maintaining the restoration once it is completed by the County or its Contractor.

(d) In areas of concrete restoration, the County or its Contractor shall compact the trench backfill and replace all concrete sidewalks, driveways, patios or other concrete with in kind material unless specifically excluded by this Agreement. The County or its Contractor will attempt to match exposed aggregate or broom surface treatment of the concrete, but Grantor acknowledges that the County and its Contractor may not be able to replace with concrete that is identical to the existing concrete, and, as such, the Grantor acknowledges that concrete repairs will contain imperfections and accepts the County's and its Contractors' efforts to repair the concrete. The County and its Contractor will not replace concrete that has any architectural treatment such as stamped, has brick in-lays, or is colored or dyed. The Grantor must make its own independent arrangements to repair and replace stamped, brick in-lays, colored or dyed concrete at Grantor's sole risk and expense. The County and its Contractor also will not replace wood decks.

(e) In areas of asphalt driveways the County will compact the backfill and replace asphalt disturbed by the side sewer construction with a trench patch. The County will not overlay or re-surface the Grantor's asphalt driveway. The trench patch will be tacked and sealed to the existing asphalt with emulsion to provide a water seal.

(f) Fences that need to be removed for the Side Sewer construction will be temporarily removed and replaced by the County or its Contractor. The County will use the Grantor's existing fence material to replace the Grantor's fence. The County or its Contractor may at their sole discretion use new fencing materials to repair the fence in the areas disturbed by the Side Sewer construction. The Grantor shall make all arrangements to provide security for pets or other animals while the fence is removed. The County and its Contractor accept no responsibility for unsecured pets and animals.

(g) The Grantor assumes all responsibility for removing and replacing any trees, bushes, structures, or other landscape improvements that must be removed to perform the Side Sewer construction. The County or its Contractor will advise the Grantor of any trees, bushes, structures or other landscape improvements that will need to be removed. Neither the County nor its Contractor shall be responsible for damage to or replacement of any trees, bushes, landscape plants or structures that are removed by the County or its Contractor due to failure of Grantor to remove the same. The Grantor shall at its sole risk remove the affected improvements and replace them at the Grantor's convenience upon restoration of the excavation.

(h) The Grantor shall mark the locations of all underground sprinkler lines, drainage lines, low voltage lines or power lines that are owned by the Grantor. This does not include the water, electrical, telephone, gas or cable service lines from the public service provider's service to the Grantor's Building. The County and its Contractor will endeavor to avoid damage to the Grantor's privately owned underground sprinkler lines, drainage lines, low voltage lines or power lines of which the County or its Contractor is notified. In the event of damage to the Grantor's private

underground lines of which the County or its Contractor had sufficient notice, the County or its Contractor will promptly repair said damage. Repair will be confined to the areas damaged by the County or its Contractor.

(i) The County or its Contractor shall backfill any excavations required to decommission the septic tank system. The areas disturbed will be backfilled with the material that was removed from the trench (unless the County opts to import backfill material) and raked level. The County will reuse or, at its sole discretion, import and place topsoil to a depth of 4 inches at finish grade. The Grantor shall be responsible to re-seed or re-sod the areas disturbed by the Septic Tank Decommissioning.

(j) The County or its Contractor shall temporarily remove any fences required to access the Grantor's Property as part of the Septic Tank Decommissioning. The County or its Contractor will replace any removed fencing with the material removed, or, at the County's sole option, install new fence material for the sections of fence removed by the County or its Contractor. The Grantor shall assume all responsibility for security of pets or other animals during the entry to the site and during the time the fence has been removed. The County and its Contractor accept no responsibility for unsecured pets and animals.

(k) The County or its Contractor will reuse any gravel or bark that is disturbed as part of the Septic Tank Decommissioning with the material that was removed from any disturbed area. If new gravel is required, the County or its Contractor will furnish and place the material. The Grantor shall be responsible for furnishing and placing new bark or mulch. The Grantor will be responsible for maintaining the restoration once it is completed by the County or its Contractor.

(l) The Grantor assumes all responsibility for removing and replacing any trees, bushes, landscape plants or structures required to perform Septic Tank Decommissioning. The County or its Contractor will advise the Grantor of any trees, bushes, structures or other landscape improvements that will need to be removed. Neither the County nor its Contractor shall be responsible for damage to or replacement of any trees, bushes, landscape plants or structures that are removed by the County or its Contractor due to failure of Grantor to remove the same. The Grantor shall at its sole risk remove the affected improvements and replace them at the Grantor's convenience upon restoration completion for the Septic Tank Decommissioning.

7. Ownership and Maintenance of Side Sewer. County hereby transfers to Grantor and Grantor accepts ownership of the Side Sewer effective upon Completion, as described in Section 1.(c) of this Agreement, with no further action on the part of either Party. Upon transfer of ownership, maintenance of the Side Sewer shall become the responsibility of the Grantor in perpetuity, subject to Section 8 below. The Grantor shall maintain and protect the Side Sewer such that it does not allow entry of surface, subsurface or rain water in any manner whatsoever. The Grantor further agrees not to connect any unauthorized drains or downspouts to the Side Sewer. Upon notification by the County, the Grantor shall promptly allow the County to enter the property in order to investigate the condition of the Side Sewer, to determine whether any maintenance is necessary or any unauthorized connections have been made. If the County determines that illegal or unauthorized connections have been made to the Grantor's Side Sewer, Grantor agrees to promptly remove such connections. If the County determines that repair or replacement of the Side Sewer is necessary, Grantor agrees to promptly repair or replace the Side Sewer at Grantor's sole

expense. Grantor further agrees to acquire all applicable permits and pay all fees for any such work. This Section 7 shall survive termination of this Agreement.

8. Inspection Period. The County reserves the right to enter onto Grantor's Property for a period of up to 18 months from Completion ("Inspection Period") to inspect the Side Sewer Construction. The County and its Contractor shall retain site access rights during the Inspection Period for the sole purpose of allowing the Contractor to make any repairs directed by the County to correct defects in the original construction. Notwithstanding the foregoing, the County and its Contractor shall not be responsible for general maintenance or damage to the Side Sewer not caused by the County or its Contractor.

9. Release and Indemnity.

(a) The County agrees to release, defend, indemnify and hold harmless Grantor and its heirs, successors and assigns from and against any and all claims, liens, demands, actions, costs, losses, expenses, harm, damages and liability (including, but not limited to, attorneys' fees) of any kind or character from third parties directly arising from the negligent acts or omissions of the County, its employees or agents in performing their obligations hereunder. County specifically promises to indemnify Grantor against claims or suits brought under Title 51 RCW for industrial insurance by County's employees and waives any immunity that County may have under that title with respect to, but only to, the limited extent necessary to indemnify Grantor.

(b) Grantor agrees to release, defend, indemnify and hold the County, its agents, employees, representatives or Contractor(s) harmless, to the fullest extent under the laws of the State of Washington, for injury or property damage, and also from and against all claims, demands, and causes of action of every kind and character arising directly or indirectly, or in any way incident to, in connection with this Agreement or the work performed hereunder, including but not limited to the County's entry onto and use of Grantor's Property, or any relating to accidents, injuries, loss, or damage of or to any person or property. Grantor further agrees to fully indemnify the County from and against any and all costs of defending any claim, demand or cause of action under this section to the end that the County is held harmless therefrom. This subsection (b) shall not apply to damages or claims resulting from the sole negligence of the County.

(c) In situations involving the concurrent negligence of Grantor and County, the Parties' respective liabilities shall be as defined by the law of the State of Washington.

This Section 9 shall survive termination of this Agreement.

10. Lien. Grantor acknowledges that the Grantor is receiving certain financing through the County, and that the Grantor's Property will be encumbered by a lien for recovery of the financing and upon sale or transfer of Grantor's Property.

11. Termination. This Agreement shall terminate on its own terms upon the expiration of the Inspection Period, subject to the survival of Sections 2.(c), 7, 8 and 9 hereof.

12. Runs with the Land. This Agreement shall run with the land, is binding upon and inure to the benefit of Grantor, and the County, their respective successors and assigns, any person acquiring title to or residing on the Grantor's Property.

(Print Name)
Notary Public in and for the State of Washington
Appointment Expires: _____

Mason County:

By: _____

Its: _____

STATE OF WASHINGTON)
)ss.
COUNTY OF MASON)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of Mason County, a municipal corporation, to be the free and voluntary act of such municipal corporation for the uses and purposes mentioned in the instrument.

Dated: _____

(Print Name)

Notary Public in and for the State of Washington

Appointment Expires: _____

Exhibit "A"

Legal Description:

Also known as:

Tax ID: _____

Exhibit “B”

INSTALLMENT PAYMENT AGREEMENT