

When Recorded, Return to:

**HILLIS CLARK MARTIN & PETERSON P.S**

Attn: Abigail P. DeWeese  
999 Third Avenue, Suite 4600  
Seattle, WA 98104



**20160902000641**

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PAGE-001 OF 009  
09/02/2016 13:30  
KING COUNTY, WA

**EXCISE TAX NOT REQUIRED**

King Co. Records Division

By MB, Deputy

**EASEMENT AGREEMENT**

<b>Grantor:</b>	STUART DEAN CHARLES AS TRUSTEE OF THE MABEL E. SUTTER FAMILY TRUST
<b>Grantee:</b>	234 9TH, LLC
<b>Legal Description of Grantor Property</b> Official on Exhibit A	The North 30 feet of Lot 3, Block 87, D.T. Denny's Park Add to North Seattle, Vol. 2 of Plats, Pg. 46.
<b>Legal Description of Grantee Property</b> Official on Exhibit B	Lots 10-12, Block 90, D.T. Denny's 5th Add., Vol. 1 of Plats, Pg. 202
<b>Assessor's Tax Parcel Numbers:</b>	Grantor Property: 1991201355 Grantee Property: 1986200120, 1986200115, 1986200110
<b>Reference Nos. of Documents Released or Assigned:</b>	N/A

**THIS EASEMENT AGREEMENT** (this "Agreement") is made by and between STUART DEAN CHARLES as Trustees of the MABEL E. SUTTER FAMILY TRUST dated August 6, 1964 ("Grantor"), and 234 9TH, LLC, a Washington limited liability company ("Grantee"). Grantor and Grantee may each be referred to in this Agreement collectively as the "Parties." The "Effective Date" of this Agreement shall be the date when the Agreement has been signed by both Parties.

**RECITALS**

**A.** Grantor is the owner of the real property located in King County, Washington and legally described on the attached **Exhibit A** (the "Grantor Property").

**B.** Grantee is the owner of the real property located in King County, Washington adjacent to the Grantor Property and legally described on the attached **Exhibit B** (the "Grantee Property").

C. In connection with the development of the Grantee Property, Grantor and Grantee desire to enter into this Agreement to allow the passage of a crane boom over the Grantor Property, in connection with Grantee's construction of certain improvements on the Grantee Property pursuant to City of Seattle Department of Planning and Development Project Nō. 3014207 ("Grantee's Project").

### AGREEMENT

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Grant of Easement.** Subject to the terms of this Agreement, Grantor grants to Grantee a nonexclusive, temporary easement for the passage of a crane boom through the airspace over the Grantor Property during construction of Grantee's Project. The radius of the crane boom is generally depicted on **Exhibit C**.
2. **Additional Provisions.** The crane boom easement shall be subject to the following conditions and limitations: (i) the crane boom shall generally be allowed to move freely over the Grantor Property; (ii) Grantee shall not permit the crane boom or any loads to come within 15 feet above the highest point of any structure on the Grantor Property; (iii) Grantee shall cause its contractor and crane operator to use prudent construction practices to minimize dust and debris falling onto the Grantor Property from the operation of the crane; (iv) Grantee shall be responsible for promptly cleaning up and removing any debris falling onto the Grantor Property from the crane's operation; (v) Grantee shall obtain and comply with all necessary federal, state and municipal permits, licenses and approvals, and shall operate the crane in compliance with the terms of said permits, licenses and approvals and all other applicable governmental rules and regulations; and (vi) the crane boom easement shall automatically terminate upon issuance of a final Certificate of Occupancy for Grantee's Project.
3. **Work Standards.** All work to be performed by Grantee or its agents, contractors, or subcontractors pursuant to the easement granted herein shall be performed at Grantee's sole cost and expense, and shall be performed: (i) in a careful and workmanlike manner; (ii) in accordance with all applicable laws, codes, regulations, and ordinances; and (iii) free of all claims or liens. Grantee shall, at its sole expense, promptly repair and restore any property damage to the Grantor Property resulting from the exercise of the easement granted herein to the Grantor Property's condition prior to such damage.
4. **Insurance.** Grantee shall maintain and cause its general contractor to obtain commercial general liability insurance insuring against injuries or damages to persons or property arising out of Grantee's exercise of the easement granted herein, including operation of the crane, with an aggregate limit of not less than \$2,000,000. Grantor shall be named as an additional insured on such policy. Grantee shall provide, upon request of Grantor, a certificate of insurance evidencing the minimum coverages and limits no later than ten (10) days prior to the exercise, as Grantee, of the easement granted herein.

**5. Indemnity.** Grantee shall indemnify, defend and hold Grantor and its officers, directors, members, employees and agents harmless from and against any and all liability, loss, damage, expense, actions, mechanic liens and claims, including costs and reasonable attorneys' fees incurred by Grantor in defense thereof, asserted or arising directly or indirectly on account of or out of acts or omissions of Grantee, its contractors, subcontractors, agents and/or employees in the exercise of the easement granted herein; provided, however, that Grantee shall not be obligated to indemnify Grantor against liability for damages arising out of bodily injury to persons or damage to property to the extent caused by or resulting from the intentional acts or negligence of Grantor, and/or its contractors, agents or employees. Such indemnification obligation is separate and distinct from Grantee's obligation to procure insurance above or repair any damage caused by Grantee.

**6. Notice.** Grantee shall give Grantor reasonable prior notice sent to the address set forth below of Grantee's intention to utilize the crane boom easement:

The Mabel E. Sutter Family Trust  
Attn: Stuart D. Charles, Trustee  
4453 Guemes Island Road  
Anacortes, WA 98221-9029

With a copy to:

Landlord Management Inc. P.S.  
Attn: Joseph J. Sacco, Property Manager  
5242 California Ave. SW  
Seattle, WA 98136

**7. Agreement to Provide Easement in Favor of Grantor.** At such time as Grantor or its successor-in-interest to the Grantor Property shall demolish the existing improvements located on the Grantor Property and commence to redevelop the Grantor Property, Grantee (or its successor in interest to the Grantee Property) shall, upon request and without any demand for compensation, grant for the benefit of the Grantor Property a nonexclusive, temporary easement for the passage of a crane boom through the airspace over the Grantee Property during development of the Grantor Property. Any such easement shall be memorialized by a separate written agreement recorded in the real property records of King County and shall contain the same terms and conditions as set forth in this Agreement for the easement granted to Grantee, except as specifically modified herein or by subsequent agreement of the Parties.

**8. Binding Effect.** The benefits and burdens of this Agreement are appurtenant to and shall run with the Grantee Property and the Grantor Property, as applicable, shall be binding upon the successors and assigns of Grantee and Grantor, as the current fee or leasehold owners thereof, for the term hereof, and shall not be extinguished by nonuse or abandonment, or transfer of any interest in the properties affected.

**9. Attorneys' Fees.** If any suit or other proceeding is instituted by either Party arising out of or pertaining to this Agreement, including, but not limited to, filing suit or requesting an arbitration (collectively "Proceedings"), and appeals and collateral actions relative to such Proceeding, the substantially prevailing Party shall be entitled to recover its reasonable attorneys' fees and all costs and expenses incurred relative to Proceeding from the substantially nonprevailing Party, in addition to such other available relief available to the substantially nonprevailing Party.

**10. Severability.** If any provision of this Agreement becomes illegal, null, or void for any reason, or is held by any court of competent jurisdiction to be so, the remaining provisions will remain in full force and effect.

**11. Enforcement.** In the event of a breach of any of the covenants or agreements set forth in this Agreement, the Parties shall be entitled to any and all remedies available at law or in equity, including, but not limited to, the equitable remedies of specific performance or mandatory or prohibitory injunction issued by an arbitrator or by a court of appropriate jurisdiction.

**12. Amendments.** Any addition, variation, or modification to this Agreement shall be in writing and signed by the Parties or their successors in interest.


**13. Applicable Law.** This Agreement and the performance thereof shall be governed, interpreted, construed, and regulated by the laws of the state of Washington.

**14. Counterparts.** This instrument may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

*[SIGNATURES APPEAR ON THE FOLLOWING PAGE]*

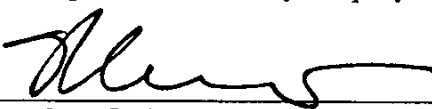
IN WITNESS WHEREOF, the undersigned acknowledge that they have read this Agreement, understand it, agree to be bound by its terms and conditions, and have cause this Agreement to be executed as of the Effective Date.

**GRANTOR:**

  
STUART DEAN CHARLES, TRUSTEE OF  
THE MABEL E. SUTTER FAMILY TRUST  
Date: 8 June 2016

**GRANTEE:**

234 9TH, LLC,  
a Washington limited liability company

By:   
Name: Scott Redman  
Its: Managing Member  
Date: 6.14.16

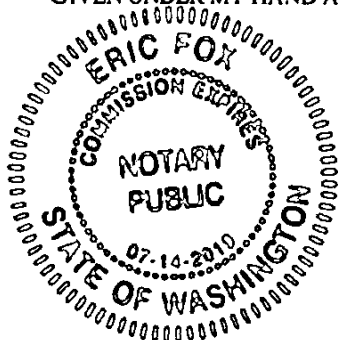
STATE OF WASHINGTON

COUNTY OF SKAGIT

} ss.

I certify that I know or have satisfactory evidence that STUART DEAN CHARLES is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Trustee of the MABEL E. SUTTER FAMILY TRUST w/a/d August 6, 1964 to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 8<sup>th</sup> day of June, 2016.



[Signature]  
Printed Name Eric Fox  
NOTARY PUBLIC in and for the State of Washington,  
residing at 1018 8<sup>th</sup> ST, Anacortes, WA 98221  
My Commission Expires 07-14-2019

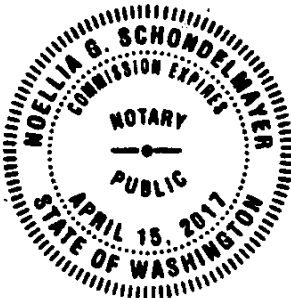
STATE OF WASHINGTON

COUNTY OF KING

} ss.

I certify that I know or have satisfactory evidence that Scott Redman is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Managing Member of 234 9TH, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 14<sup>th</sup> day of June, 2016.



[Signature]  
Printed Name Noella G. Schondelmayer  
NOTARY PUBLIC in and for the State of Washington,  
residing at ISSAQUAH, WA  
My Commission Expires 4/15/17

**EXHIBIT A**

**LEGAL DESCRIPTION OF GRANTOR'S PROPERTY**

The North 30 feet of Lot 3, Block 87, D.T. Denny's Park Addition to North Seattle, according to plat recorded in Volume 2 of Plats at page 46, Records of King County, Washington.

**EXHIBIT B**

**LEGAL DESCRIPTION OF GRANTEE'S PROPERTY**

LOT 10, BLOCK 90, D.T. DENNY'S 5TH ADDITION TO NORTH SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 202, IN KING COUNTY, WASHINGTON;

LOT 11, BLOCK 90, D.T. DENNY'S 5TH ADDITION TO NORTH SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 202, IN KING COUNTY, WASHINGTON; AND

LOT 12, BLOCK 90, D.T. DENNY'S 5TH ADDITION TO NORTH SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 202, IN KING COUNTY, WASHINGTON.



**EXHIBIT C**

**DIAGRAM OF CRANE BOOM RADIUS**

*[Diagram on file at Grantee's address: 234 9th Avenue, Seattle, WA]*