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When recorded return to:  
Anne Porter, VP & CFO  
YMCA Pierce and Kitsap Counties  
4717 S. 19th Street, Suite 201  
Tacoma, WA 98405

Document Title(s) (or transactions contained therein): 1. Easement Agreement 2.
Grantor(s) Name (last, first, and initials): 1. YMCA OF PIERCE AND KITSAP COUNTIES, a Washington nonprofit corporation 2. 3. <input type="checkbox"/> Additional Names on Page _____ of Document
Grantee(s) Name (last, first, and initials): 1. <del>MOLEN ORTHODONTICS, P.S.</del> , a Washington <del>professional</del> corporation <i>limited liability</i> 2. <i>MML Management, LLC</i> 3. <input type="checkbox"/> Additional Names on Page _____ of Document
Legal Description (Abbreviated i.e. lot/block and plat or section, township and range) SE ¼ Sec 19, Twp 20 Rge 5 <i>and B</i> <input type="checkbox"/> Full Legal Description is on Exhibit A of this Document.
Reference Number(s) of Documents Assigned or Released: N/A <input type="checkbox"/> Additional Reference Numbers on Page _____ of Document
Assessor's Tax Parcel / Account Number 0520194086

EASEMENT AGREEMENT

*MML Management, LLC* *limited liability*

Grantor: YMCA OF PIERCE AND KITSAP COUNTIES, a Washington nonprofit corporation

Grantee: ~~MOLEN ORTHODONTICS, P.S., A Washington professional corporation~~

Legal Description: SE ¼ Sec 19, Twp 20 Rge 5

Assessor's Tax Parcel ID#: 0520194086

THIS EASEMENT AGREEMENT is made this \_\_\_\_ day of JULY, 2015 by YMCA OF PIERCE AND KITSAP COUNTIES, a Washington nonprofit corporation ("Grantor") and ~~MOLEN ORTHODONTICS, P.S., A Washington professional corporation~~ ("Grantee").

*limited liability corporation* *MML Management, LLC*

BACKGROUND

A. Grantor owns certain real property located in Pierce County, Washington, that is legally described on Exhibit A ("Grantor Property").

B. Grantee owns certain real property adjacent to Grantor Property in Pierce County, Washington, that is legally described on Exhibit B (hereinafter referred to as the "Grantee Property").

C. Grantee needs an easement over a portion of the Grantor's Property for shared access and additional parking to serve the Grantee Property, specifically, the YMCA parking lot nearest to the utilities connection/stub ~~identified~~ *described on Exhibit C-1 and depicted* on Exhibit C-2 (defined below). Grantee is approaching Grantor about the shared access to comply with City of Sumner's code that encourages development to limit the number of driveways and shared access points (City of Sumner Design Guideline Sec. 2.1.5(b)). Grantee has agreed that, subject to Grantor's consent, it will construct a driveway/connection fold into Grantor's Property to create an opening for parking and access at its sole cost and expense. Grantor is willing to provide Grantee with an easement for such purposes at Grantee's sole cost and expense. In addition, Grantor is willing to grant Grantee a temporary easement for construction around the easement area.

D. As consideration for the request from Grantee, Grantor has requested the ability to use the parking spaces on Grantee's Property to address Grantor's overflow parking needs as the same may arise from time to time, and Grantee has agreed to the same so long as the same occurs outside of its normal business hours.

In light of this background and the mutual benefits to be gained by each party, Grantor and Grantee agree as follows:

AGREEMENT

1. Grant of Permanent Access and Parking Easement; Temporary Construction Easement.

a. ~~Access and Parking Easement.~~ Grantor hereby grants to Grantee for the mutual benefit of the Grantor Property and the Grantee Property an exclusive perpetual easement for the purpose of constructing, maintaining, repairing, replacing and operating a paved access driveway (the "Improvements") over, under, across and through that portion of the Grantor Property legally described on Exhibit C-1 (the "Access and Parking Easement") for ingress, egress and ~~staff parking only~~. The location of the Access and Parking Easement is depicted on Exhibit C-2 and marked as being at the point of "Connection/Stub."

*b. Parking Easement.*  
*Grantor hereby grants to Grantee for the benefit of the Grantee and property, an exclusive perpetual easement over, under, across and through that portion of the Grantor property, used →*

for ingress and egress to parking stalls and for parking within existing parking stalls during the Grantee's normal business hours for the purpose of staff parking only.

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*c. b.* Construction Easement. In addition to the Access and Parking Easement described above, Grantor hereby grants to Grantee for the mutual benefit of the Grantor Property and the Grantee Property an exclusive temporary construction easement within fifteen (15) feet on all sides of the Access ~~and Parking~~ Easement area for the purpose of the construction, installation, grading, landscaping and other work needed on the Access ~~& Parking~~ Easement to install the Improvements (the "Construction Easement"). The Construction Easement shall begin whenever work begins on the Access ~~and Parking~~ Easement and terminate within ten (10) days of the substantial completion of the Improvements to and within the Access ~~and Parking~~ Easement.

*d. e.* Overflow Parking Easement. Grantee hereby grants to Grantor for the benefit of the Grantor Property, an exclusive perpetual easement over, under, across and through that portion of the Grantee Property used for ingress and egress to parking stalls and for parking within existing parking stalls (the "Overflow Parking Easement") but only outside of Grantee's normal business hours.

2. Maintenance, Construction and Operation.

2.1 Grantee shall be solely responsible for the cost of any installation, operation, maintenance, repair or replacement of the Improvements within, on or under the Access ~~and Parking~~ Easement, and the same shall be performed so as to interfere as little as reasonably possible with the use and enjoyment of other portions of the Grantor Property. Any such work must be scheduled at least 30 days in advance and Grantor shall be notified in writing of the intended scope of the work, the scheduled date of the work, and will have the right to approve of the contractor and all other details of the work at no cost to Grantor, which approval will not be unreasonably withheld, conditioned or delayed. Following the completion of any such work, Grantee shall landscape and restore that part of the Grantee's Property that it used for the temporary Construction Easement to the condition it was in immediately prior to such work and the Construction Easement will automatically then terminate.

2.2 Except in cases of emergency Grantor and Grantee will coordinate the timing of any repair work so that it does not unduly interfere with the use of either's property.

3. No Interference; Signage.

Except for Grantee's Improvements to be constructed within the Access ~~and Parking~~ Easement, nothing shall be built by Grantee upon or put within, including any signage, the Access and Parking Easement without the prior written consent of Grantor. With regard to signage, any such signage must conform to applicable law and satisfy the Grantor's criterion for approval. Neither party may expand, change, alter, modify or improve the Access and Parking Easement or the Construction Easement, nor grant any exclusive or non-exclusive rights in and to the Access and Parking Easement or the Construction Easement, without the other party's prior written consent.

4. No Liens.

Grantee agrees that it will not permit any mechanics, materialmen's or other liens against any portion of Grantor's Property arising by or through Grantee's use of the Access and Parking Easement.

5. Insurance.

a. Insurance. From and after the Effective Date of this Access and Parking Easement, and until terminated, Grantee shall maintain at its sole expense:

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- i. Property insurance in builder's risk form for the full replacement value of the Access and Parking Easement needed to serve the Grantee's Property as well as the Overflow Parking Easement area; and,
- ii. Commercial general liability insurance with limits no less than \$1,000,000 single limit per occurrence and \$1,000,000 in the aggregate occurrence for bodily injury, sickness or death or for damage to or destruction of property.

b. Rating. All such policies shall be issued by insurers rated at least AM by Best's Rating of at least A-; Financial Size Category VII. All such insurers shall be licensed to do business in the State of Washington. All such insurance shall contain a waiver of any rights of subrogation thereunder.

c. Additional Insureds; Cancellation. In addition, the policies shall name Grantor and their respective officers, employees, contractors, agents, and representatives, as primary non-contributory additional insureds and the insurance shall not be cancelled without at least thirty (30) days cancellation notice to Grantor. If Grantor has duplicative coverage, Grantee's and/or that of its contractors and subcontractors shall nonetheless be primary. Grantee shall furnish evidence of such insurance in the form of a Certificate of Insurance from its insurer to Grantor and such endorsements as required by Grantor at any time upon request.

### 6. Indemnification.

Grantee shall indemnify, defend, and hold harmless Grantor from all demands, claims, causes of actions or judgments, and all reasonable expenses (including attorney fees), for personal injuries or damage to property arising out of Grantee's use of the Access and Parking Easement, including the installation of any Improvements within the Access and Parking Easement.

### 7. Termination of Easement.

The Access and Parking Easement shall be perpetual, but may, at the sole election of Grantor, be terminated upon: ~~(a) a change in zoning that would require an expansion of the Easement; (b) a change in the Access and Parking Easement's configuration or location; and/or (c) a change in the use of Grantee's Property from a dental / medical clinic to some other use that Grantor feels, in its reasonable discretion, is not reasonably compatible with and/or complimentary to the Grantor's business.~~ Subject to Grantor's right to terminate the Access and Parking Easement, Grantee may terminate the Access and Parking Easement if its need for the Access and Parking Easement ceases. Unless terminated as described in the foregoing, the Access and Parking Easement and will not terminate without the prior written consent of both Grantor and Grantee. The effective date of any such termination of the Access and Parking Easement will be 60 days following the other party's written receipt of such notice of termination.

### 8. Successors and Assigns.

This Agreement shall run with the affected parcels and is binding upon the parties, their heirs, successors and assigns.

### 9. Attorney's Fees.

In any action to interpret or enforce this Agreement, the prevailing party shall be entitled to reimbursement for reasonable attorney's fees and costs, including those on appeal.

### 10. Applicable Law.

## DRAFT

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Washington. Any litigation arising out of or in connection with this Agreement shall be conducted in Pierce County, Washington.

11. Headings.

The headings in this Agreement are for convenience only and do not in any way limit or affect the terms and provisions hereof.

12. Severability.

If any term, covenant or condition of this Agreement is held to be invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.

13. Entire Agreement.

This Agreement and all exhibits attached hereto is the entire agreement of the parties, and all prior understandings and agreements of the parties relating thereto are merged herein. This Agreement may not be modified in any manner whatsoever except by written instrument signed by all of the parties.

14. Recording. This Agreement and any amendments thereto shall be recorded in the Auditor's records of Pierce County, Washington.

Grantor:

YMCA OF PIERCE AND KITSAP COUNTIES,  
a Washington nonprofit corporation

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

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

Grantee:

*mml management, LLC*  
~~MOLEN ORTHODONTICS, P.S.~~, a Washington  
professional corporation

*limited liability*  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

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

STATE OF WASHINGTON

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) ss.

County of Pierce

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*MML management, LLC*

I certify that I know or have satisfactory evidence that Aaron Molen 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 \_\_\_\_\_ of ~~Molen Orthodontics, P.S.~~, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_

(Type/Print Name above)  
Notary Public in and for the  
State of Washington, residing at \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

STATE OF WASHINGTON

)

) ss.

County of Pierce

)

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that [he][she] signed this instrument, on oath stated that [he][she] was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of YMCA of Pierce and Kitsap Counties, a Washington nonprofit corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_

(Type/Print Name above)  
Notary Public in and for the  
State of Washington, residing at \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

EXHIBIT A

LEGAL DESCRIPTION OF YMCA PROPERTY

PARCEL A OF CITY OF SUMNER BOUNDARY LINE ADJUSTMENT PLN-2014-0054 AS RECORDED UNDER AUDITOR'S FEE NO. 201412165002, RECORDS OF PIERCE COUNTY, WASHINGTON.

EXHIBIT B

Legal Description of Grantee's Property:

BEGINNING 1,318.70 FEET EAST OF A MONUMENT LOCATED AT THE SOUTHWEST CORNER OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 19, TOWNSHIP 20 NORTH, RANGE 5 EAST OF THE W.M., THENCE NORTH 660 FEET; THENCE EAST 198 FEET; THENCE SOUTH 545 FEET; THENCE WEST 60 FEET; THENCE SOUTH 115 FEET; THENCE WEST 138 FEET TO THE POINT OF BEGINNING; EXCEPT THE NORTH 392.00 FEET THEREOF. AND EXCEPT THE SOUTH 30 FEET FOR SUMNER BUCKLEY HIGHWAY (64TH STREET EAST).

(ALSO KNOWN AS PARCEL B OF BOUNDARY LINE ADJUSTMENT RECORDED ON JULY 27, 1994 AS RECORDING NO. 9407270347, IN THE OFFICIAL RECORDS OF PIERCE COUNTY, WASHINGTON).

Tax Parcel Number: 052019-4086

Situs Address: 16209 64th Street East, Sumner, WA 98390

EXHIBIT C-1

LEGAL DESCRIPTION OF ACCESS EASEMENT TO GRANTEE'S PROPERTY

THE EAST 62.00 FEET OF THE SOUTH 200.00 FEET OF PARCEL A OF CITY OF SUMNER BOUNDARY LINE ADJUSTMENT PLN-2014-0054 AS RECORDED UNDER AUDITOR'S FEE NO. 201412165002, RECORDS OF PIERCE COUNTY, WASHINGTON.



MML MANAGEMENT LLC PROPERTY  
#0520194086

CONNECTION STUB

YMCA PROPERTY  
#0520194097

YMCA DRIVEWAY /  
SHARED ACCESS

SINGLE FAMILY  
RESIDENTIAL

SINGLE FAMILY  
RESIDENTIAL

64TH STREET E



TACOMA · SEATTLE  
2215 North 30th Street, Suite 300, Tacoma, WA 98403 253.383.2422 TEL.  
316 Occidental Avenue South, Suite 320, Seattle, WA 98104 206.267.2425 TEL.

Civil Engineers  
Structural Engineers  
Landscape Architects  
Community Planners  
Land Surveyors  
Neighbors

MML MANAGEMENT LLC PROPERTY

ACCESS EASEMENT  
EXHIBIT

EX C-2